

Eli's Hospice Insider

Documentation: Hospices Get Good News About Electronic Signatures

Plus: Contractors can't trigger the condition for payment - only patients.

A regulatory fuzzy area is getting a bit more clear, thanks to the 2021 hospice payment final rule.

The **Centers for Medicare & Medicaid Services** has issued "no specific guidance addressing beneficiary (or representative) electronic signatures on the hospice election statement," CMS acknowledges in the 2021 final rule published in the Aug. 4 Federal Register. "Generally, it is at the contractor's discretion as to how they address patient (or representative) electronic signatures in their review of medical records."

But CMS does go ahead and offer a helpful guideline in the rule. "As long as the content requirements at § 418.24(b) and (c) are met, there is nothing precluding a hospice from having an election statement and addendum in an electronic format," CMS says in the rule.

Likewise, "we also recognize that hospices may already have their existing election statements in an electronic format and hospices may prefer to have the addendum incorporated into their Electronic Medical Records (EMRs) as well," CMS says. "As long as the content requirements at § 418.24 (b) and (c) are met, including securing the beneficiary's (or representative's) signature acknowledging receipt of the addendum, there is nothing precluding a hospice from leveraging such technology."

"The requirement is that the information must be provided to the beneficiary (or representative), in writing," CMS reviews. "While we envisioned a hard copy document for ease of use and sharing with nonhospice providers, we note that we did not explicitly prohibit the use of an electronic patient portal or provision of the addendum as an electronic version, as we recognize information can be provided in a written, electronic format. We want hospices to be able to furnish such information in the least burdensome way to facilitate the communication of this information to hospice patients and their families, and even potentially for communicating with non-hospice providers as suggested by the commenters."

Upon request: Hospices shouldn't miss an important requirement for electronic versions, though. "We require that the information be provided in a language and format that the beneficiary (or representative) understands," the rule maintains. "Therefore, if the beneficiary (or representative) receives the addendum in an electronic format but requests to have a hard copy version for their records, we expect that the hospice would accommodate such request."

This language signals that electronic versions of the addendum are OK, as well as electronic signatures required for them, interprets **Judi Lund Person** with the **National Hospice & Palliative Care Organization**. That's a "silver lining" to the requirement, she judges.



Another good clarification is that when a beneficiary or their representative does not request the addendum, it is not a condition for payment. Therefore, if an outside entity such as a Medicare contractor requests an addendum, it doesn't affect the stay's status.

"In the event that a non-hospice provider or Medicare contractor requests the addendum, but the beneficiary (or representative) did not already request and sign the addendum, this would not be a violation of the condition for

payment,” CMS specifies in the rule.

Other provisions in the brief rule include:

- **HQRP.** CMS reminds hospices that the COVID- 19-related Hospice Quality Reporting Program exemption ended June 30, and thus hospices must resume HQRP data reporting for July or face a 2 percent payment reduction. “The calendar year 2020 data used for meeting the HQRP requirements include July 1 through December 31, 2020,” CMS clarifies.
- **ABN vs. addendum.** To clarify the differences between Advance Beneficiary Notices and the new election statement addendum requirement, CMS includes a chart on p. 21 of the 29-page rule at www.govinfo.gov/content/pkg/FR-2020-08-04/pdf/2020-16991.pdf. One big difference is that hospices must deliver ABNs prior to furnishing care, while they have five days to furnish the addendum when requested at time of election (or 72 hours when requested later).