

Eli's Hospice Insider

Referrals: Use New SNF Rule To Open Doors To Your Hospice

Tip: Be ready to demonstrate that you furnish all four levels of hospice care.

Nursing homes uncomfortable with establishing hospice relationships due to a dearth of specific guidance from Medicare may change their tune.

That's thanks to the skilled nursing facility final rule on hospice-SNF relationships, which took effect last month. The Centers for Medicare & Medicaid Services rule spells out for the first time from the nursing facility perspective the details of what's expected in the legal agreement between nursing homes and hospice, says nurse attorney Janet Feldkamp with Bensch in Columbus, Ohio.

Until now, such partnerships were guided primarily by a hospice-focused rule (Section 418.112 of the hospice Conditions of Participation) published in 2008, leaving many legal and regulatory gray areas for nursing facilities. The new rule effectively revises nursing facility conditions of participation, Section 483.75(t).

The new rule complements the earlier hospice rule, and the forthcoming interpretative guidance for long-term care surveyors is likely to be informed by the companion hospice document as well, observers expect.

Review These SNF-Hospice Agreement Basics

You may see more referrals for nursing home residents if you help your SNF partners understand the new rule. It makes clear that nursing homes must respond to each resident's request for hospice care in a meaningful way — either partnering with a certified hospice to provide care in the facility or helping to arrange the resident's transfer to a setting where hospice care can be provided.

Essential first step: A hospice cannot legally provide care within a facility until it finalizes its written agreement covering the points contained in the final rule, with authorized parties from both the facility and hospice signing the document.

Only one written agreement is required for each hospice that provides services in the facility, notes Evie Munley with Leading Age (formerly AAHSA). The written agreement must, at a minimum, outline the following:

- The services the hospice will provide, including the stipulation that the hospice is responsible for devising an appropriate hospice plan of care.
- An outline of the services that the nursing facility will continue to provide.
- A long term care facility's agreement to provide 24-hour room and board care, collaborating with the hospice representative to meet the resident's "personal care and nursing care needs." Significantly, this provision includes CMS's expectation that the LTC facility will "ensure that the level of care provided is appropriately based on the individual resident's needs."
- An overview of the communication process — including a process of documenting communications — ensuring that nursing facility and hospice are able to collaborate effectively and meet the resident's needs 24 hours a day.
- A requirement for bereavement services, potentially shared by the nursing facility and hospice.

The agreement also must spell out the responsibility of the SNF to notify the hospice immediately of a significant change in a resident's physical, mental, social, or emotional status; a clinical complication that suggests a need to alter the plan of care; a need to transfer the resident from the facility for any condition; and the death of a resident.

The hospice must assume responsibility for determining the appropriate course of hospice care, CMS notes, including any change in the level of hospice services provided.

Other responsibilities, which must be outlined in the agreement letter, include medical direction and management of the patient, nursing, counseling, social work, providing medical supplies, equipment, and drugs for the terminal illness and related conditions.

Knowing Nursing Facility's Role

You can help SNFs avoid survey trouble and confidently facilitate hospice by assisting them in learning their responsibilities under the rule, including administration of therapies and reporting alleged violations, including injuries, neglect, and abuse.

The buck stops with the SNF: Although the hospice must administer the hospice care plan, the LTC facility must ensure that the hospice care plan □ together with the facility's description of services □ are designed to help the facility "attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being," cautions the **American Medical Directors Association**.

Be prepared to field questions about your service levels. A recent report from the HHS Office of Inspector General says that "the number of hospice providers that are not equipped to provide [higher general inpatient] level of care proved to be an area of concern," says attorney Howard J. Young with Morgan Lewis in Washington, D.C. Don't be surprised to see SNFs that want to document up front your ability to provide all four levels of hospice care.