

Eli's Hospice Insider

Regulations: Don't Fall In A Compliance Trap With New PA Change

Remember: PAs still can't certify patients' terminal illness, among other things.

Get ready for a little expansion of what Physician Assistants can do for hospice patients - but not as much as hospices would like.

Old way: "The attending physician is defined as a doctor of medicine or osteopathy ... or a nurse practitioner, and is identified by the individual as having the most significant role in the determination and delivery of the individual's medical care," the 2019 hospice payment final rule notes.

New way: Starting Oct. 1, "Medicare will pay for medically reasonable and necessary services provided by PAs to Medicare beneficiaries who have elected the hospice benefit and who have selected a PA as their attending physician," the rule says. "PAs are paid 85 percent of the fee schedule amount for their services as attending physicians."

What PAs can't do: "Since PAs are not physicians ... they may not act as medical directors or physicians of the hospice or certify the beneficiary's terminal illness," the rule specifies. "And hospices may not contract with a PA for their attending physician services."

Numerous commenters urged CMS to allow PAs to perform F2F and CTI duties, the rule notes. "The exclusion of PAs from being able to provide the face-to-face encounter falls short of the goals of expanding the number of providers assisting this vulnerable population," one commenter told CMS. "Allowing PAs to conduct the face-to-face encounter and to certify terminal illness ensures greater continuity of care and prevent patients from having to engage with another healthcare professional for this encounter."

But CMS claims that the Bipartisan Budget Act of 2018, which enacted the revision, "did not make changes to allow PAs to certify terminal illness or perform the face-to-face encounter for Medicare beneficiaries." In fact, "section 51006 of the BBA of 2018 amended section 1814(a)(7)(A) (i)(I) of the Act explicitly to exclude physician assistants from certifying terminal illness," CMS continues in the rule.

Bottom line: "We reiterate that no one other than a medical doctor or doctor of osteopathy can certify or re-certify terminal illness," CMS stresses in the regulation.

PAs also may not serve as hospice medical directors or lead a hospice interdisciplinary team, points out the **National Association for Home Care & Hospice** in its rule analysis.

However, PAs can take part in the IDG, CMS highlights in the rule. Medicare regulations make clear that these disciplines must take part in the IDG: a doctor of medicine or osteopathy (who is an employee or under contract with the hospice); a registered nurse; a social worker; and a pastoral or other counselor. "The required members of the IDG are described in the CoPs, but other professionals, including NPs and PAs, are not excluded from participating in the IDG as appropriate for the beneficiary's plan of care," CMS notes in the rule.

Even with the restrictions, "many commenters expressed support and appreciation for the inclusion of physician assistants as designated hospice attending physicians," the rule notes. "Commenters noted that PAs have an important role in providing hospice care, including supplying care to rural areas, and believe that this change will increase access to hospice services for Medicare beneficiaries."

When BBA18 passed, the **American Academy of Physician Assistants** cheered the elimination of "the unwarranted restrictions which have prevented PAs from providing hospice care to their Medicare patients," according to a release. "Too many PAs have patients that have been under their care for years who have been forced to choose between

continued care and hospice," said AAPA President **L. Gail Curtis**. The change "will empower PAs to offer continuity of care at a time when patients and their families are most vulnerable."

Medicare beneficiaries, "especially those living in rural and other medically underserved communities where PAs may be the sole healthcare professional, will benefit" from the change, the AAPA noted.

CMS predicts that "inclusion of PAs in the definition of attending physician ... will lead to more flexibility for hospice beneficiaries and providers alike," the rule says.

Note: The 2019 hospice final rule is at www.gpo.gov/fdsys/pkg/FR-2018-08-06/pdf/201816539.pdf.