

Eli's Hospice Insider

Regulations: F2F Hammer Continues To Pound Hospices

Obtaining timely benefit period information is a huge obstacle to face-to-face compliance.

About three months into enforcement of the hospice face-to-face physician encounter requirement, providers are still having a tough time with the new regulation.

"Implementation of the face-to-face requirements remains a challenge," notes consultant **Heather Wilson** of **Weatherbee Resources** in Hyannis, Mass. The additional expense of meeting the F2F requirement is ongoing, Wilson notes.

Hospices have implemented the "basic mechanics of completing face-to-face encounters," says **Judi Lund Person** with the **National Hospice and Palliative Care Organization**. But to do so, they generally had to hire nurse practitioners to complete the encounters. Or they hired or contracted with additional physicians to complete the encounters. At the least, they increased hours for current physicians, Person tells **Eli**.

Hospices that are relying on non-employed physicians to conduct the F2F visits are having the hardest time, observes Chicago-based regulatory consultant **Rebecca Friedman Zuber**. "It works far better when the hospice has physicians who are employees," Zuber says.

Why? For one, it's difficult to get community physicians to make visits to hospice patients' homes when they can't go into the office for a visit, Zuber notes.

"Some physicians just don't want to do it," Wilson says of the physicians' new F2F duties.

But of more concern is a new trend -- community docs conducting the F2F visit and declaring the patient ineligible for hospice, causing the patient's discharge, Zuber says. Then a rival hospice immediately picks up the patient.

On one hand: Some hospice veterans say this shows that community physicians don't really understand the Medicare hospice benefit or how it applies to beneficiaries. Or that the community physician isn't taking the time to really get to know the patient, Zuber points out. Since the patient really is hospice-eligible, a second hospice is providing the service she needs.

On the other hand: Others say that the second hospice that admits the patient after such a discharge "is just taking advantage of the patient's and family's emotional state when discharge occurs in this way," Zuber says. In fact, **Centers for Medicare & Medicaid Services** officials might think "that the physicians and NPs that work for the hospices as employees may not be fully objective, whereas the community physician who works on a contract has less at stake," she adds.

Either reason for the F2F-triggered discharges and immediate readmissions is a problem, Zuber maintains. Hospices should be "concerned that CMS has no apparent interest in looking more closely at those instances where a patient is discharged and then picked up immediately by another hospice," she says. "These situations should be investigated to learn more about what is actually happening -- are the discharging physicians wrong about the patient's status, or are the second hospices admitting incorrectly?"

One F2F Challenge Eliminated

It's not all bad news for face-to-face compliance, however. In a few months, a final rule should be on the books that will allow hospices greater flexibility when it comes to which physicians can perform the F2F encounter.

In the hospice 2012 proposed payment rule in the May 9 Federal Register, CMS proposed "to remove the limitation that requires the hospice physician who performs the face-to-face encounter and attests to that encounter be the same physician who certifies the patient's terminal illness," the agency said in a release (see Eli's Hospice Insider, Vol. 4, No. 6, p. 33).

The new regulations would read: "The attestation of the nurse practitioner or a non-certifying hospice physician shall state that the clinical findings of that visit were provided to the certifying physician for use in determining continued eligibility for hospice care."

It will be a "huge help to have the same physician issue resolved, so that it does not have to be the same physician who conducts the face-to-face as the one who recertifies the patient," Wilson cheers.

Note: The 46-page proposed rule is at www.gpo.gov/fdsys/pkg/FR-2011-05-09/pdf/2011-10689.pdf.