

Eli's Hospice Insider

Regulations: Hospices Protest Additional Burden Under New Attending Physician Requirements

CMS tries to head off coerced changes to patients' physicians.

New procedures for identifying patients' attending physicians means new headaches for hospices, providers protest.

Reminder: In the 2015 final rule for hospice payment, the **Centers for Medicare & Medicaid Services** sets out two new requirements for hospices regarding attending physicians. They must identify the attending on the patient's election statement, and they must document any changes of attending physician (see Eli's Hospice Insider, Vol. 7, No. 10).

CMS finalized its provisions from the proposed rule as-is, despite numerous criticisms of the changes. For example, commenters worried that identifying the attending physician on the Notice of Election would result in delayed admissions.

"Since identifying an attending physician at time of hospice election has been a requirement in place for over 30 years, and has not appeared to cause any delay in admission, we do not believe that including the information that identifies the attending physician on the election form would now begin to create delays in admission to hospice care," CMS responds in the final rule.

The new requirements also discourage attending changes, which are frequently necessary, commenters said.

"We recognize that there are many legitimate reasons for a patient to change an attending physician," CMS maintains in the rule. "However, the choice of the new attending physician belongs solely to the patient (or representative), and the intent of this proposal is to further safeguard and protect that beneficiary choice."

At this time, CMS is not limiting the number of times an attending can change, nor implementing any claims edits related to the attending physician of record, experts point out. CMS isn't requiring hospices to enter the attending changes into the billing system — yet, the agency points out in the rule.

Bottom line: "A patient cannot be required or coerced to change his or her attending physician," CMS stresses.

Commenters also protested that it is community and hospital physicians who are billing inappropriately and need education, not hospices. CMS will issue an MLN Matters article on the topic to help educate physicians, and may undertake other related physician education efforts in the future, the agency says in the rule.

Some hospices thought upon reading the proposed rule, that the attending would have to change every time a patient entered General Inpatient Care, which would be very stressful for patients' families.

But CMS takes pains in the rule to point out that a patient's attending shouldn't change just because they enter GIP, points out the **National Association for Home Care & Hospice** in its rule analysis. If the attending isn't available, the hospice physician should fill in.

Thanks to that clarification, "we do not believe that the procedures we proposed for documenting a change in attending physician need to be revised, and are implementing the proposal without changes," CMS says.

Note: The final rule is at www.gpo.gov/fdsys/pkg/FR-2014-08-22/pdf/2014-18506.pdf. The new NOE requirements are discussed on pp. 29-32 of the PDF file.

