

Eli's Hospice Insider

Regulations: Review Your Nursing Home Agreements, CMS Urges

Rule requiring SNFs to have written agreements with hospices finalized.

Now you're not the only one required to have a written agreement when you enter into a relationship with a nursing home. In the June 27 Federal Register, the **Centers for Medicare & Medicaid Services** published a rule requiring "that long-term care (LTC) facilities (that is, SNFs and NFs) that choose to arrange for the provision of hospice care through an agreement with one or more Medicare-certified hospice providers will have in place a written agreement with the hospice that specifies the roles and responsibilities of each entity."

Be prepared: "Facilities could begin review of their written agreements with hospices to ensure that they comply with the new requirements or have questions regarding the written agreements," expects the **National Association for Home Care & Hospice**.

CMS Neutral On Format Of SNF Contracts

"The specific requirements for the written agreement are consistent with the written agreement requirements that are already set for hospices," CMS's **Danielle Shearer** noted in the July 9 Open Door Forum for home care providers. "However, because this final rule is written from the point of view of the long term care facility, and because it went through the public comment process and was slightly changed during that process, there are slight differences between the requirements for the hospice provider and the requirements for the long term care provider," Shearer warns.

One change: When CMS first proposed the requirement, "a few commenters stated that hospice providers should be notified of any transfer of a resident receiving hospice services, regardless of whether it was related to the terminal illness or not," the agency says in the notice. "We agree with the commenters and have revised the regulation ... to remove the phrase 'that is not related to the terminal condition' in order to clarify that the LTC facility immediately notifies the hospice regarding a need to transfer the resident from the facility for any condition."

Upshot: "We encourage hospices to coordinate with their long term care partners to make sure that their written agreements that they have now are up to date and in compliance with both sets of the regulations," Shearer advised in the forum.

Question: Attorney **Connie Raffa** of **Arent Fox** in New York City asked CMS officials if they had an opinion on a new trend of nursing homes requiring hospices to sign individual contracts naming each patient rather than one general contract covering all patients in a nursing home. Individual contracts would make it difficult to comply with the rule to have the contract signed and in place before hospice service begins for the patient.

Answer: Nursing homes are free to structure their contracts any way they like as long as the contracts comply with the regulatory requirements, Shearer responded. "That is a business practice that we intend to keep our nose out of." Further, "we try to interfere as little as possible in contractual relationships," she added.

The new LTC facility requirement takes effect Aug. 26.



Note: The rule is online at www.gpo.gov/fdsys/pkg/FR-2013-06-27/pdf/2013-15313.pdf.