

Program Integrity—An Overview for Hospice Providers

Introduction

The Centers for Medicare & Medicaid Services (CMS), Center for Program Integrity (CPI) and the States are providing educational resources to providers to enhance awareness of the Medicaid hospice benefit and to engage them in efforts to prevent fraud, waste, and abuse in the Medicaid program. Recent audits of Medicaid hospice providers by the U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG) identified common claims errors that resulted in overpayments, including claims that did not meet Federal and State requirements for inpatient level of care,[1] and medical records that did not support a terminal condition.[2]

Medicaid Hospice Benefit Overview

Hospice care is defined as a “comprehensive set of services … identified and coordinated by an interdisciplinary group to provide for the physical, psychosocial, spiritual, and emotional needs of a terminally ill patient and/or family members, as delineated in a specific patient plan of care.”[3, 4] Hospice services are designed to be provided in the participant’s home, but for purposes of the Medicaid hospice benefit, a nursing facility may be considered a participant’s home.[5]

Hospice care can be confused with palliative care. A beneficiary can receive palliative care when diagnosed with a serious illness but does not have to be eligible for the Medicaid hospice benefit. Palliative care can help manage the pain and symptoms of illness, whether the illness is terminal or not. Palliative care is distinct from curative care, which seeks a cure for a disease or medical condition. Upon election of the hospice benefit, treatment to cure the terminal illness usually ceases, unless the participant is younger than age 21.[6]

Eligibility for hospice care under Medicaid requires physician certification that the participant is terminally ill. Each State definition of “terminal illness” includes a medical prognosis with a limited life expectancy, the length of which varies by State.

Providers should check their State Medicaid agency (SMA) provider manual for specific information on definitions, eligibility requirements, applicable Medicare local coverage determinations (LCDs), facilities that may be considered a participant’s home, and benefits available.

Documentation

Proper documentation is required to support medical necessity and proper level of care. Documentation of medical necessity must be included as a part of hospice certification or recertification to show that the participant continues to meet the minimum disease-specific criteria with clinical decline and progression of the terminal illness.[7] There are four different levels of care for hospice payment. These levels include: 1) Routine home care; 2) Continuous home care; 3) Inpatient respite care; and, 4) General inpatient care.[8] A provider who bills Medicaid for hospice care delivered to an ineligible participant or bills at a higher level of care than was actually provided or necessary is subject to criminal prosecution under the False Claims Act.[9]

What Providers Can Do to Help

Hospice providers can take certain measures to prevent fraud, waste, and abuse and reduce improper payments in the Medicaid program. Steps include training staff on hospice eligibility, medical necessity, and proper

documentation to avoid any undue penalties or sanctions. Large provider groups must have written policies and procedures to address fraud, waste, and abuse and other relevant laws.[10]

New long-term care facility staff reporting requirements take effect July 1, 2016, which will include contracted or in-house hospice staff members. These new requirements may be found at 42 C.F.R. 483.75(u).[11]

Report potential fraud to your State Medicaid Fraud Control Unit (MFCU) or SMA. You may also contact the HHS-OIG by sending an email to HHSTips@oig.hhs.gov or by calling 1-800-HHS-TIPS (1-800-447-8477); TTY: 1-800-377-4950.

To see the electronic version of this fact sheet and the other products included in the “Hospice Care” Toolkit, visit the Medicaid Program Integrity Education page at <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/edmic-landing.html> on the CMS website.

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References

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2 The United States Attorney’s Office. Middle District of Florida. (2013, July 22). HPH Hospice to Pay \$1 Million to Resolve False Claims Act Allegations. Retrieved December 11, 2015, from http://www.justice.gov/usao/flm/press/2013/july/20130722_PHH.html

3 Definitions, 42 C.F.R. § 418.3. Retrieved December 11, 2015, from http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=009d7a8f47e1232ab64f843034cf7275&rgn=div5&view=text&node=42:3.0.1.1.5&idno=42#se42.3.418_13

4 Social Security Act § 1861(dd)(2)(B). Retrieved December 11, 2015, from https://www.ssa.gov/OP_Home/ssact/title18/1861.htm

5 Centers for Medicare & Medicaid Services. (2000, July 31). State Medicaid Manual. Chapter 4 § 4305.2, para. 3. Hospice Services. Retrieved December 11, 2015, from <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals-Items/CMS021927.html>

6 Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 2302. 124 Stat. 119, 293. (2010, March 23). Retrieved December 11, 2015, from <http://www.gpo.gov/fdsys/pkg/PLAW-111publ148/pdf/PLAW-111publ148.pdf>

7 Centers for Medicare & Medicaid Services. (2000, July 31). State Medicaid Manual. Chapter 4 § 4305.1. Physician Certification. Retrieved December 11, 2015, from <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals-Items/CMS021927.html>

8 Centers for Medicare & Medicaid Services. (2000, July 31). State Medicaid Manual. Chapter 4 § 4306. Hospice Reimbursement. Retrieved December 11, 2015, from <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals-Items/CMS021927.html>

9 False, Fictitious or Fraudulent Claims, 18 U.S.C. § 287. Retrieved December 11, 2015, from <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap15-sec287.pdf>

10 Social Security Act § 1902(a)(68). Retrieved December 10, 2015, from https://www.ssa.gov/OP_Home/ssact/title19/1902.htm

11 Administration (Amendment). (2015, August 4). 42 C.F.R. 483.75(u) [80 F.R.46477]. Retrieved December 11, 2015, from <http://www.ecfr.gov/cgi-bin/text-idx?SID=8382cea1456f0806cac125fa3faa9d93&mc=true&node=20150804y1.10>

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