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# **CMS Manual System**

## **Pub. 100-02 Medicare Benefit Policy**

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**Department of Health &  
Human Services (DHHS)  
Centers for Medicare &  
Medicaid Services (CMS)**

**Transmittal 28**

**Date: DECEMBER 3, 2004**

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**CHANGE REQUEST 3585**

### **SUBJECT: Hospice Pre-Election Evaluation and Counseling Services**

**I. SUMMARY OF CHANGES:** Section 512 of the Medicare Prescription Drug Improvement and Modernization Act of 2003, amends sections 1812(a), 1814(i) and 1861(dd) of the Act, effective January 1, 2005, to provide for payment to a hospice for specified hospice pre- election evaluation and counseling services furnished by a physician who is either the medical director of or employee of the hospice agency.

Beginning January 1, 2005, this provision provides for a one-time payment for specified services furnished by a physician who is either the medical director of or employee of a hospice agency. Payment will be made on behalf of a beneficiary who is terminally ill, (defined as having a prognosis of 6 months or less if the disease runs its normal course), has not made a hospice election and has not previously received hospice pre-election evaluation and counseling services. Chapter 9 (Coverage of Hospice Services Under Hospital Insurance) of Pub. 100-02, Medicare Benefit Policy Manual has been amended to reflect the implementation of this provision. Chapter 11, (Processing Hospice Claims), of Pub. 100-04 of the Medicare Claims Processing Manual has been amended to reflect claims processing changes for implementing this provision. In addition, intermediary system changes were made to permit submission of claims.

HCPCS code G0337 “Hospice Pre-Election Evaluation and Counseling Services,” will be used to designate that these services have been provided. Hospice agencies will bill their Regional Home Health Intermediary, using the designated G0337 code for specified services provided by a physician who is either the medical director of or employee of the hospice agency.

**NEW/REVISED MATERIAL - EFFECTIVE DATE\*: January 1, 2005**

**IMPLEMENTATION DATE: January 3, 2005**

*Disclaimer for manual changes only: The revision date and transmittal number apply to the red italicized material only. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.*

**II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual not updated.)**

**(R = REVISED, N = NEW, D = DELETED) – (Only One Per Row.)**

<b>R/N/D</b>	<b>CHAPTER/SECTION/SUBSECTION/TITLE</b>
<b>R</b>	9/Table of Contents
<b>N</b>	9/80/Hospice Pre-Election Evaluation and Counseling Services
<b>N</b>	9/80.1/Documentation
<b>N</b>	9/80.2/Payment

**III. FUNDING: Medicare contractors shall implement these instructions within their current operating budgets.**

**IV. ATTACHMENTS:**

	<b>Business Requirements</b>
<b>X</b>	<b>Manual Instruction</b>
	<b>Confidential Requirements</b>
	<b>One-Time Notification</b>
	<b>Recurring Update Notification</b>

**\*Unless otherwise specified, the effective date is the date of service.**

# Medicare Benefit Policy Manual

## Chapter 9 - Coverage of Hospice Services Under Hospital Insurance

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*(Rev. 28, 12-03-04)*

### [Crosswalk to Old Manual](#)

*80 – Hospice Pre-Election Evaluation and Counseling Services*

*80.1 - Documentation*

*80.2 - Payment*

***80 - Hospice – Pre-Election Evaluation and Counseling Services  
(Rev.28 , Issued: 12-03-04, Effective: 01-01-05, Implementation: 01-03-05)***

*Effective January 1, 2005, section 512 of the MMA amends section 1812(a)(1)(5) of the Act which, provides for a one-time payment to be made to a hospice for evaluation and counseling services furnished by a physician who is either the medical director of or employee of a hospice agency. In order to be eligible to receive this service, a beneficiary must:*

- be determined to have a terminal illness (which is defined as having a prognosis of 6 months or less if the disease or illness runs its normal course;*
- not have made a hospice election, and*
- not previously received the pre-election hospice services*

*Services under this benefit are comprised of:*

- evaluating the individual's need for pain and symptom management;*
- counseling the individual regarding hospice and other care options, and may include;*
- advising the individual regarding advanced care planning.*

*The services that comprise this benefit are currently available through other Medicare benefits. For example, evaluation and counseling are often provided by an individual's physician as well as by other sources such as discharge planners, case managers, social workers and nonphysician providers. Therefore, this service may not be reasonable and necessary for all individuals. To the extent that beneficiaries have already received Medicare-covered evaluation and counseling with respect to end-of-life care, the hospice pre-election benefit would seem duplicative. However, if a beneficiary or the beneficiary's physician deem it necessary to seek the expertise of a hospice medical director or physician employee, this benefit is available to assure that a beneficiary's end-of-life options for care and pain management are addressed.*

*Since the decision to utilize this benefit is determined by the beneficiary or the beneficiary's physician, the evaluation and counseling service may not be initiated by the hospice, that is, the entity receiving payment for the service. Payments by hospice agencies to physicians or others in a position to refer patients for services furnished under this provision may implicate the Federal anti-kickback statute.*

*If the beneficiary's physician is also the medical director or physician employed by a hospice or possesses expertise in the provision of palliative or hospice care, that physician already possesses the expertise necessary to furnish end-of-life services and will have received payment for these services through the use of evaluation and management codes.*

*For example:*

*A thoracic surgeon has diagnosed a patient hospitalized in an acute care facility, with end-stage lung cancer with a prognosis of 6 months or less, if the disease runs its normal course. The patient has been informed of this diagnosis. The physician, with the patient's concurrence, requests a consult by the hospital's palliative care team. The team meets with the patient, discusses options, evaluates the patient's pain and symptoms, and makes recommendations including hospice care. Utilization of the evaluation and consultation benefit would be duplicative.*

*A patient with terminal cervical cancer has been receiving aggressive curative care as an outpatient, which has not been successful. The patient's physician, nurse and social worker have discussed the possibility of hospice. The patient decides to seek information from a hospice. Utilization of the evaluation and consultation benefit would be appropriate.*

*Hospice A receives referrals from various physicians and facilities that the patients are certified as having a terminal illness and wish to elect the hospice benefit. Hospice A utilizes the evaluation and consultation benefit for every patient as a preliminary evaluation, prior to the actual election of the benefit. Utilization of the evaluation and consultation benefit would not be appropriate.*

*Nursing home B contacts Hospice C providing them with a list of patients that can be certified as having a terminal illness. The medical director of Hospice C makes "rounds" on these patients, many of whom are unable to communicate and whose symptoms are being managed well. Utilization of the evaluation and consultation benefit would not be appropriate.*

*A patient is being treated by a physician for end-stage COPD. The patient is experiencing distressing symptoms, but has not been able to make any definitive decision as to advanced directive decisions. The patient's physician feels that the expertise of the medical director in Hospice D would be able to provide recommendations as to symptom management and advance directive decisions. The medical director provides the evaluation and consultation services. The patient does not elect the hospice benefit, but is able to make determinations as to his wishes and the physician has recommendations to assist in his provision of care. Utilization of the evaluation and consultation benefit would be appropriate.*

### **80.1. Documentation**

**(Rev.28 , Issued: 12-03-04, Effective: 01-01-05, Implementation: 01-03-05)**

*If the beneficiary's physician initiates the request for the evaluation and counseling service, appropriate documentation guidelines should be followed, including the determination of the terminal diagnosis. Since this provision is not a prerequisite of or part of the hospice benefit, certification of the terminal diagnosis is not required. The request or referral should be in writing, and the hospice medical director or physician employee would be expected to provide a written note on the patient's medical chart as well as maintaining a written record of this service.*

*If the beneficiary initiates the request for the service, the hospice agency should maintain a written record of the service and communication with the beneficiary's physician, with*

*the beneficiary's permission, would occur, to the extent necessary to ensure continuity of care.*

## **80. 2. Payment**

**(Rev.28 , Issued: 12-03-04, Effective: 01-01-05, Implementation: 01-03-05)**

*Section 512(b) of the MMA amends section 1814(i) of the Act and establishes payment for this service. The statute specifies that the payment will be made to the hospice for services provided by the hospice medical director or physician employed by the hospice. The provision of these services may not be delegated to other hospice personnel (i.e., nurse practitioners, registered nurses, social workers, etc.) and may not be furnished by a physician under contract with the hospice. We intend to monitor data regarding the use of this benefit.*

*Since the evaluation and counseling provision is not a service within the hospice benefit, payment for these services are not included in the hospice payment cap.*

*Payment to the hospice agency for the provision of this evaluation and counseling service is made using HCPCS code G0337. The national payment amount for this service for FY 2005 will be \$54.57. Future changes in the rate will be identified in the Physician Fee Schedules. See Pub 100-04, chapter 11, section 10.1 for claims processing instructions.*