

Medicare Hospice Protection Act, H.R. 6873/S. 3484

What is the Hospice Budget Neutrality Adjustment Factor (BNAF)?

- The hospice payment methodology is set forth in the Medicare statute, and the budget neutrality adjustment factor, in particular, was the product of a careful and deliberate negotiated rule making process and has been an integral part of the hospice wage index for over 10 years.
- The proposal to eliminate the BNAF was initially introduced in the Administration's fiscal year 2009 budget proposal and quickly advanced through a proposed rulemaking process in the Spring.
- On August 1st, CMS issued a final regulation that will have a devastating impact on hospices, and the over one million American families who choose quality, compassionate end-of-life care each year.

Why the Medicare Hospice Protection Act is Needed

- This regulation is being implemented administratively, thus bypassing Congressional approval. It represents the circumvention of Congressional will through the regulatory process.
- If implemented on October 1st, the rule would cut hospice reimbursement by more than \$2.1 billion.
- Average hospice reimbursement would be **reduced** from current levels by more than 4.5%.
- Hospice programs served more than 1.3 million patients and families, in the place they call their homes, last year and that number is expected to continue to rise as more terminally ill patients seek high quality, compassionate end-of-life care.
- Research shows that hospice is cost effective. An independent Duke University study in 2007 showed that patients receiving hospice care cost the Medicare program about \$2,300 less than those that did not, a savings to Medicare of more than \$2 billion annually. MedPAC reported to Congress in June, 2008 that hospice margins are still quite low, at 3.4%.
- Gasoline costs for hospices – a key component of expenses due to hospice's delivery of care at the location the patient calls home – have increased 27.9% in the past year. (Source: Consumer Price Index.)
- Average registered nurse salaries across the country increased over 10% between 2006 and 2007. (Source: Bureau of Labor Statistics.)
- Hospice health insurance premiums increased by 6.1% between 2006 and 2007 - two times the rate of inflation. (Source: The Henry J. Kaiser Family Foundation. Employee Health Benefits: 2007 Annual Survey.)
- Hospice care is not limited to cancer patients. Hospices now care for over half of all Americans who die from cancer and a growing number of patients with other chronic, life-limiting illnesses, such as end-stage heart or lung disease. Approximately 54% of hospice patients have a non-cancer diagnosis. America's hospices are leaders in caring for patients with HIV/AIDS.

What the Medicare Hospice Protection Act Does

The Medicare Hospice Protection Act simply delays implementation of the phased elimination of the budget neutrality adjustment by one year. Instead of a hasty October 1, 2008 implementation, the Hospice Protection Act allows MedPAC and CMS to continue its work on a thoughtful study of the hospice Medicare benefit.

As Senators Specter, Harkin, Wyden and Roberts wrote in a July 28, 2008 letter to the White House:

Cuts of this magnitude need to be carefully scrutinized through an open and transparent process and should not be rushed. This proposal to eliminate the current budget neutrality factor was proposed for the first time by the Administration's FY2009 Budget. The Medicare Payment Advisory Commission (MedPAC) and CMS are just beginning to study hospice payment issues. If a final rule is issued without a better understanding of all aspects of hospice reimbursement, the Administration risks issuing a regulation that is unnecessary and overly burdensome on hospice providers and patients.