Medicare Hospice Conditions of Participation (CoPs)
Compliance Guide for Hospice Providers
January 2015

Sec. 418.108 Condition of Participation: Short Term Inpatient Care

Short-term inpatient care may be provided in a participating hospital, hospice inpatient unit, or a participating skilled nursing facility (SNF) or a nursing facility (NF). The Medicare Hospice Benefit covers two levels of inpatient care: respite care for relief of the patient’s caregivers, and general inpatient care which is for pain control and symptom management.

- **Inpatient care must be provided in a participating Medicare or Medicaid facility, and available for:**
  - Acute pain and symptom management.
  - Respite purposes for the patient’s caregiver.
    - **NOTE:** Provision of inpatient care is not optional; it is a requirement of a Medicare certified hospice.

- **Inpatient care for acute pain and symptom management**
  - Inpatient care for acute pain and symptom management must be provided in either:
    - A Medicare-certified hospice that meets the conditions of participation for providing inpatient care directly (requirements specified in CoPs at § 418.110).
    - A Medicare-certified hospital or a skilled nursing facility that provides 24 hour direct patient care by a registered nurse if at least one patient is receiving general inpatient care.
  - To be eligible for general inpatient care under the Medicare hospice benefit, patients **must** require an intensity of care directed towards acute pain and symptom management that cannot be managed in any other setting.
    - **NOTE:** Medicare payment cannot be made for inpatient hospice care provided in a VA facility to Medicare beneficiaries eligible to receive Veterans health services.
  - Caregiver breakdown:
    - Caregiver breakdown is the loss of the individual’s support structure and should not be confused with the coverage requirements for medically reasonable and necessary care for pain and symptom management that cannot be managed in any other setting.
    - Caregiver breakdown should not be billed as general inpatient care unless the coverage requirements for this level of care are met.
• **Inpatient care for respite purposes**
  o Inpatient care for respite purposes must be provided by one of the following:
    ▪ A Medicare-certified hospice that meets the conditions of participation for providing
      inpatient care directly (requirements specified in CoPs at §418.100).
    ▪ A Medicare-certified hospital or a skilled nursing facility that also meets the
      standards for providing inpatient care directly (requirements specified in CoPs at §
      418.110).
    ▪ A Medicare or Medicaid-certified nursing facility that also meets the standards
      specified in § 418.110(f) - Patient Areas.
    ▪ **Respite care may not be provided in an assisted living facility.**
  o 24 hour nursing in respite care.
    ▪ The care needs of a respite patient are equivalent to those of the patient in his or
      her home and therefore may not necessitate registered nursing care on a 24-hour
      basis.
    ▪ Staffing for a facility solely providing the respite level of care to hospice patients
      should be based on each patient’s care needs.
    ▪ Each patient must receive all nursing services as prescribed and must be kept
      comfortable, clean, well-groomed, and protected from accident, injury, and
      infection.

• **Inpatient care provided under arrangements**
  o If a hospice contracts for short-term inpatient care with a facility, the hospice must
    coordinate a written agreement with that facility.
  o The written agreement must include a commitment by the hospice to:
    ▪ Provide the inpatient facility a copy of the patient’s plan of care.
    ▪ Provide the inpatient facility a list of specific services that are to be furnished by the
      inpatient facility. This may be included in the plan of care.
    ▪ Provide orientation and training of the hospice philosophy to the inpatient facility
      personnel who will be providing services to the hospice patient.
    ▪ Document a description of the training provided to any inpatient facility personnel
      along with the names of those hospice staff providing the training.
  o The written agreement must also include a commitment by the inpatient provider to:
    ▪ Demonstrate already established patient care policies consistent with those of the
      hospice.
    ▪ Abide by the palliative care protocols established by the hospice.
    ▪ Provide services according to the plan of care established by the hospice.
    ▪ Include in the inpatient’s clinical record all inpatient services furnished and events
      regarding care that occurred at the facility.
    ▪ Provide the hospice with a copy of the discharge summary at the time of the
      patient’s discharge.
    ▪ Make the inpatient’s clinical record available to the hospice at the time of discharge.
Identify an individual within the facility who is responsible for the implementation of the provisions of the agreement.

- The written agreement must include a method to verify that all of the requirements of the agreement are met.
  - CMS does not dictate a process to verify that all of the requirements have been met.

**Inpatient care limitation**

- A particular hospice should calculate the limit on inpatient days for Medicare beneficiaries who elected hospice coverage in a twelve-month period. The total number of inpatient days used by Medicare beneficiaries who have elected hospice coverage in a 12-month period in a particular hospice may not exceed 20 percent of the total number of hospice days used in total for this group of beneficiaries.
- Example: 100 Medicare beneficiaries used 1,000 days of hospice care in a 12 month period. The maximum number of days of inpatient care (general inpatient and inpatient respite care) that these 100 beneficiaries can use is 200 days during the 12 month period.
- **Exemption from limitation.** Before October 1, 1986, any hospice that began operation before January 1, 1975, is not subject to the limitation specified in paragraph (d) of this section.

### ***Compliance suggestions for hospice providers***

- Review and revise (as needed) program policy/procedure at least annually.
- Review and revise (as needed) current facility contractual agreements at least annually.
  - Assess compliance with contractual agreement components and act upon non-compliance as necessary. (Schedule an annual meeting/call with contractor administration to discuss agreement and performance, complete a site visit with contractor, etc...)
- Review and revise training and facility orientation programs as needed.
- Discuss the role of IDG and facility staff with hospice staff for patients receiving care in a contracted facility and issues with coordination of patient care (if any).
- Incorporate education about inpatient care requirements into your orientation program and continuing education for physicians.

- Please note that hospice providers need to comply with the most stringent regulatory requirements (Federal or State).

### Resources

- NHPCO’s Regulatory & Compliance Center
  - Managing General Inpatient Care for Symptom Management (2012)
  - Managing Hospice Respite Care (2012)
  - Medicare Benefit Policy Manual, Chapter 9 - Coverage of Hospice Services Under Hospital Insurance

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References
Part II - Department of Health and Human Services, Centers for Medicare & Medicaid Services
42 CFR Part 418. Medicare and Medicaid Programs: Hospice Conditions of Participation; last update 2013