Incorporating Medicare Part D into the Hospice Admissions
And Medication Management Process
Compliance for Hospice Providers
March 2014

Hospice and Part D
CMS issued final guidance on Part D and hospice on March 10, 2014. This final guidance will change admission and medication management processes in every hospice that cares for Medicare beneficiaries.

This Compliance Guide provides hospice organizations with tools and suggested language that will assist in compliance with the Part D and hospice guidance.

Federal regulations at 42 CFR § 418.202(f) stipulate that the Medicare Hospice Benefit covers only drugs and biologicals used primarily for the relief of pain and symptom control for the terminal illness and related conditions (the term “drugs and biologicals” is defined in section 1861(t) of the Social Security Act).

The recently finalized (March 2014) CMS guidance on Part D and hospice will require hospice providers to adjust their admission and medication management processes for Medicare beneficiaries. Effective May 1, 2014, Part D plan sponsors are required to reject all prescription drugs billed to Part D for beneficiaries who have elected the hospice benefit unless or until the hospice notifies the Part D plan, through a prior authorization process, that the medication is unrelated to the terminal illness or related conditions. Once the plan sponsor processes the prior authorization for drugs unrelated to the terminal illness, Part D will process the claim. The hospice will be responsible if the drug is related to the terminal illness or related conditions, or the beneficiary may be financially responsible if the drug is related to the terminal illness but the hospice has determined that it is not medically necessary. The hospice will have new data to collect during the admission process, and increased documentation requirements for the determination of relatedness and the completion of the prior authorization forms.

Suggestions for hospice provider admission process when a patient has Part D coverage

1. Patient Admission Packet… Add language to your patient admission materials that states that the hospice provider is required to review all medications when the patient elects the Medicare Hospice Benefit.

Sample language:
As hospice providers, we need to meet the rules that the Centers for Medicare and Medicaid (CMS) set for us. As of May 1, 2014, if you have Medicare Part D
drug coverage, your pharmacy must bill all your medications to us, your hospice provider, to determine whether they are covered under the hospice benefit or by your Part D plan. We will work with your physician and pharmacy to determine which medications we will cover under the Medicare Hospice Benefit, which ones will be covered under your Part D plan, and which medications are determined to be no longer medically necessary and if continued, would become the financial responsibility of the patient.

2. Determine whether the patient has Part D coverage, and identify their Part D plan…

There are three ways to determine a patient’s Part D plan enrollment. NHPCO recommends that hospice providers gather Part D enrollment information on all current Medicare patients and implement a process to gather information on Part D enrollment for all new patients.

   a. **Patient’s Part D card:** During the admission process, ask the patient if they have Medicare drug coverage, and ask to see patient’s Part D card or information which lists the name of the Part D plan. Gather the name of the plan, any patient-specific information, and the customer service phone number on the card.


   c. **Hospice pharmacy:** Hospice providers can also proactively identify a beneficiary’s Part D plan through their hospice pharmacy. Hospice pharmacies can identify a beneficiary’s Part D plan by submitting a standard electronic eligibility (E1) query to the CMS Transaction Facilitator. The query response identifies the plan sponsor and provides the sponsor’s online billing information, as well as the pharmacy help desk telephone number. The hospice provider can initiate communication or submit a prior authorization (PA) through the Part D plan sponsor’s 24-hour pharmacy help desk.

3. Describe process to patients, representatives and families…

   a. Verbally review with the patient, representative and family that Medicare requires that the hospice provider identify all medications when the patient elects the Medicare Hospice Benefit. Document the review in the medical record.

   b. Explain to patients and families that they will not be able to pick up medications not included in the hospice plan of care from their pharmacy and have Part D pay for those medications unless the hospice provider validates the medication with the pharmacy first, by providing information that it is unrelated to the terminal illness or related conditions and can be covered by Part D.

   c. Describe the possibility that there could be drugs that are the patient’s liability if the patient wants to continue taking drugs that have been determined by the hospice to be medically unnecessary and are not included in the hospice plan of care. Here is some sample language:
**Medically unnecessary medications** – When a medication is determined to be related to the terminal illness but not medically necessary for the palliation of pain and/or symptom management by the hospice physician, hospice will not pay for the medication. This medication also will not be covered by your Part D plan. If you choose to continue taking the medication, you will need to pay for it out of pocket unless you have coverage from another insurer.

**Medication that is off the hospice formulary** – if you request a drug for your terminal illness or related condition that is not on the hospice formulary and you refuse to try a drug that the hospice believes will be as effective and is on the hospice formulary, you may opt to pay for the drug out of pocket. If you choose that option, no payment for that medication will be available by the hospice or under Part D.

4. **File the NOE...** Hospice providers must file the Notice of Hospice Election as soon as possible after the patient or representative signs the election of hospice provider.

5. **Proactively contact Part D plan immediately upon admission...** Hospice providers may contact the patient’s Part D plan regarding the patient’s medications before a claim submission, such as a hospice election. This will provide early notice of the hospice election, ensure a smooth transition in the coverage of medications, and limit the need for retrospective recoupment if Part D pays for a drug that should have been covered by hospice. During this initial contact, the hospice may begin the prior authorization process, indicating which drugs are determined to be coverable under Part D, along with an explanation of why the drugs are unrelated to the terminal illness or related conditions. Each Part D plan may have a different PA form, but hospice providers should be prepared to provide the information in Appendix A of this document to the Part D provider. When hospice providers provide this documentation, sponsors should accept it and use it to satisfy the PA requirements.

6. **Review medications...** Review all patient medications with the patient or their representative, and determine the relationship of the medication to the patient’s terminal illness and related conditions. Designate medications as:
   a. Related and covered by hospice provider.
   b. Unrelated to the patient/representative’s terminal illness and related conditions but medically reasonable and necessary and covered by Part D.
   c. Related but medically unnecessary and not included in the hospice provider plan of care.
      i. The patient or their representative must be notified that these medications will not be covered by hospice provider or Part D, and the patient will have to pay for them out of pocket if they wish to continue taking them.

7. **Inform patient/ representative of liability and possible ABN....** A patient or their representative must be notified when medications have been determined to not be medically necessary and will not be covered by the hospice provider (Part A) or Part D.
a. If hospice provider does not provide the medication, an Advance Beneficiary Notice of Non-coverage or ABN) does not need to be issued to the patient/representative.

b. If the hospice provider provides the medication even though it is not reasonable and necessary, the hospice must issue an ABN in order to charge the patient or their representative for the medication.

8. Inform patient/representative of appeal rights...

a. If the beneficiary feels that the hospice provider should cover the cost of the drug, they may submit a claim for the medication directly to Medicare on Form CMS-1490S. If the claim is denied, the patient/representative may file an appeal of that determination under the appeals process set forth in part 405, subpart I.

b. Hospice providers should be ready to either provide CMS-1490S to the patient/representative and/or indicate where it can be obtained.

c. If the beneficiary desires to continue taking drugs that are not covered by Medicare Part A or Part D, then the hospice provider must fully inform the beneficiary of his or her financial liability.

d. Beneficiaries who disagree with such determinations may continue raising these issues through the Medicare fee-for-service appeals process if the determination relates to Part A or B coverage and the Part D appeals process if the determination relates to Part D coverage. Beneficiaries may also submit quality of care complaints to a Quality Improvement Organization when the beneficiary prefers a non-formulary drug because, for example, they believe it to be more efficacious than the formulary drug prescribed by the hospice provider.

9. Contact the patient’s attending physician or other prescribers... If the patient will continue to take an unrelated medication prescribed by the patient’s attending physician or another prescriber unaffiliated with the hospice provider, the hospice should contact the physician to explain the Part D prior authorization process and the need to coordinate with the hospice. As soon as a patient is admitted, the hospice should be able to notify the Part D plan that the drug is unrelated, and the hospice can complete the prior authorization documentation at that time, but if this isn’t done, or if the physician writes a new prescription, the physician needs to be informed that the Part D plan may contact them for the following information:

a. Prior Authorization – the prescriber may be asked to complete the prior authorization, either by providing a verbal explanation regarding why the drug is unrelated, or completing the prior authorization form and submitting it to the plan

b. Attestation – the prescriber must attest that they have coordinated with the hospice provider and the hospice provider confirms the unrelatedness of the drug.

c. Coordination with the hospice – If the prescriber is unable or unwilling to coordinate with the hospice to provide the required information, the Part D plan may contact the hospice directly to obtain the necessary information, but CMS has stated that they do not necessarily expect the Part D plan to be responsible for ensuring that PA is fulfilled, so it will be important for the hospice to communicate with the prescriber in advance, so that they understand what will be needed.
d. **Part D action after PA notification** - After receiving the necessary prior authorization information from the physician, the plan instructs the pharmacy to pay the claim under Part D and notify the physician. The sponsor may, but is not required to, provide the hospice with an informational copy of the prior authorization notice. The hospice should request that unaffiliated physicians provide the hospice with copies of prior authorizations obtained by the physician.

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**Suggested medication review process for patients currently on service with a hospice provider**

1. **Review medications**... Ensure that there is a complete list in the patient’s medical record of all medications prescribed for the patient, related and unrelated. Review all patient medications and determine the relationship of the medication to the patient’s terminal illness and related conditions. Designate medications as:
   a. Related and covered by hospice provider.
   b. Unrelated to the patient/representative’s terminal illness and related conditions but medically reasonable and necessary.
   c. Related but medically unnecessary and not included in the hospice provider’s plan of care, therefore becoming the financial responsibility of the patient or the patient’s representative.

2. **Document medications**... For medications that are not related and covered by the hospice, the hospice physician must document a brief medical explanation in the clinical record regarding:
   a. Why each medication is unrelated to the patient’s terminal illness and related conditions. This explanation will be communicated to the Part D plan through the Prior Authorization process to justify Part D coverage for medications that are medically necessary but unrelated to the terminal illness and related conditions.
   b. Why a related medication is deemed medically unnecessary and not included in the hospice provider plan of care. Include documentation of the discussion with the patient/family/representative on the patient’s financial responsibility if they choose to continue taking this medication.

3. **Alert patients and representatives**... Hospice providers should be prepared to discuss verbally and provide, in writing, an explanation of the new process for medications and the role of the hospice. Provide a letter to your current patients or their representative that states hospice providers are required to review all medications when the patient elects the Medicare Hospice Benefit and determine whether the medications are related to the terminal illness, what medications are unrelated and will be paid by the Part D plan, and what medications are related but judged by the hospice to be ineffective and will be discontinued by the hospice. The patient or their representative will also need to know that their Part D plan will be contacted regarding medications that are unrelated to the terminal illness but will be continued, so that Part D will cover
them.

4. **Contact Part D plan**... Providers will contact the patient’s Part D plan to determine their PA process for unrelated medications. Each Part D plan may have a slightly different PA form and process, but hospice providers should be prepared to provide the information listed in Appendix A at the end of this Compliance Guide as standard data elements for a prior authorization to the Part D provider.

Providers need to be prepared to:
   a. Verbally communicate the information or provide written documentation from the hospice provider physician about why a medication is unrelated. When hospice providers provide this documentation, sponsors have been instructed to accept it and use it to satisfy the PA requirements.
   b. If a prescriber is unaffiliated with the hospice, provide the attestation from the prescribing physician as evidence of coordination with the hospice provider (as requested).
   c. Expect initial communication challenges with the Part D plans as they sort out their prior authorization process.
   d. The sponsor’s “pharmacy help desk,” open 24/7, is often best equipped to answer questions about the prior authorization process. Obtain the pharmacy help desk number from the pharmacy provider or the Part D plan sponsor.

**Part D contact information by state:** [Part D Customer Service Representative (CSR) Contact List (2013) [ZIP, 457KB]]

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**Use of Hospice Provider Formularies**

All medications prescribed for a patient/representative must meet the needs of the patient. If the drugs on the formulary are not providing the relief needed, then the hospice provider must provide an alternative(s) in order to relieve pain and symptoms, even if it means providing a drug(s) that is not on their formulary. CMS expects hospice providers to provide non-formulary drugs when they are necessary to meet the patient’s needs and desired outcomes.

**Exception:** If a patient/representative request a **specific drug** which is not on the hospice provider formulary, the hospice provider does not have to provide that specific drug if the hospice physician determines that a medication on its formulary would work as well. If a patient or representative insists on the specific drug that the hospice provider does not believe is reasonable and necessary, and the hospice provider offers an alternative medication that could meet the patient’s needs which is refused by the patient/representative, the patient could still receive the specific drug, but the hospice provider would not be liable for its cost. The specific drug cannot be billed to Part D and would be the patient/representative’s financial liability. This must be communicated to the patient and his or her representative.
Patient Discharge or Revocation from Hospice

The hospice provider should alert the Part D plan sponsor as soon as possible after a patient revokes their hospice benefit or is discharged, so that the patient can access their Part D benefits immediately.

Dispute Resolution Process for Part D Medication Non-Coverage

- There will be no independent review process for dispute resolution for 2014.
- CMS expects the following action from hospice providers and Part D plans:
  - The hospice provider and Part D sponsor to coordinate their benefits;
  - The hospice provider or the prescriber should promptly provide verbal communication or written documentation to the Part D plan in order to satisfy the beneficiary-level hospice PA and allow Part D coverage of a medically necessary drug that is unrelated to the terminal illness or related conditions.
  - The Part D sponsor should accept and maintain the documentation that the drug is unrelated to the terminal illness or related conditions and is, therefore, reimbursable under Part D and process the claim; and
  - If there are drugs paid for by the Part D sponsor after the effective date of the hospice election, but prior to the sponsor’s receipt of notification from CMS or the hospice, the sponsor and hospice should negotiate the retrospective recovery of the amounts to be repaid by the hospice to Part D, or from the beneficiary if they agreed to be financially responsible for a related drug that the hospice determined was not medically necessary.

Retrospective Determinations of Payment Responsibility

- If the Part D plan paid for medications prior to receiving notification of the patient’s hospice election, the Part D plan will perform a subsequent review of claims paid within the hospice election period.
- The Part D plan will contact the hospice provider or prescriber to make retrospective determinations of payment responsibility for the medications.
- In order to determine whether the drug is for treatment of a condition unrelated to the terminal illness or related conditions, CMS expects the prescriber or hospice provider to coordinate with the Part D plan regarding these claims and, as requested by the Part D plan, provide the necessary written information explaining why:
  - The drug is unrelated to the terminal illness or related conditions and the Part D plan is responsible for the cost of the medication, or
  - The patient is liable for cost.

Questions about Part D Plans

Hospice providers who experience challenges with the prior authorization process or are experiencing long delays in getting answers to PA questions from Part D plan sponsors should
relay those experiences to NHPCO’s Regulatory team by emailing us at regulatory@nhpco.org Please write, “Part D Communication Issues” in the subject line of the email.

NHPCO and CMS both acknowledge that this guidance doesn’t answer all questions, and that there will be delays and unexpected challenges as this new process is implemented. We continue to work with other stakeholders, including Part D plans and long term care pharmacies, and conversations with CMS are ongoing.
Appendix A

Recommended Medicare Part D Hospice Prior Authorization Information

**Note:** At this time, CMS has not implemented a standardized prior authorization form for all Part D plans to use. However, they have supplied this list of data elements that they expect would be collected by the Part D plan sponsor in the PA process, and some plans may use this as their PA form.

**Part D Sponsor/PBM Information for faxing/mailing**
Name  
Address  
Fax #  
Phone #  

**Today’s Date**

**PATIENT and INSURANCE INFORMATION**  
Patient Name  
DOB  
Patient Phone#  
Insurance ID Number

**PRESCRIBER INFORMATION**
Prescribing Physician’s Name  
Physician NPI#  
Clinic Name:  
Clinic Address  
City, State, Zip  
Clinic Contact Person’s Name  
Clinic Phone #  
Clinic Secure Fax #

**PRESCRIPTION INFORMATION**
Medication Requested  
Strength  
Dosing Schedule  
Quantity per Month

**PRIOR AUTHORIZATION INFORMATION**
1. Is the patient currently enrolled in Hospice?  
   If No, date of disenrollment

   **Hospice Name And Contact Information:**  
   Name  
   Phone #  
   Secure Fax #

2. Is the medication related to the terminal illness or related conditions and covered under the hospice benefit?
3. If no, is the medication not covered by Hospice because:
   a. It is being used for a condition unrelated to the terminal illness or related conditions? If so, please provide an explanation of why the condition being treated is unrelated to the terminal illness or related conditions and therefore is not covered under hospice benefit and may be covered under Medicare Part D.

   b. It is being used for a condition related to the terminal illness or related conditions, but the medication is not included on the hospice formulary, is not medically necessary or is waived through the hospice election? Medicare Part D will not cover this medication.

4. If the prescriber of the medication is unaffiliated with the hospice provider, has the hospice provider confirmed that the medication is unrelated to the terminal illness or related conditions?