

Hospice Face to Face Visit Requirements - Medicare Versus Medicaid

To: NHPCO Provider Members

From: NHPCO Policy Team

Date: September 23, 2021

NHPCO has received numerous questions and concerns from hospice providers in states where there is a state-specific Executive Order or regulation regarding the Hospice Face-to-Face requirement. Further detail on the differences between the federal law and state-specific mandates is below.

CARES Act and Hospice Face-to-Face Encounter Requirement: In March 2020, in the early days of the COVID-19 pandemic, the Coronavirus Aid, Relief, and Economic Security act (CARES Act) became law, and it included a change to the Medicare statute that allows the hospice face-to-face (F2F) visit to determine continued Medicare eligibility for hospice to be performed via telehealth during the duration of the federal Public Health Emergency (PHE) related to COVID-19. Since the federal PHE has continued to be extended, the F2F visit to determine continued Medicare hospice eligibility may still be conducted via telehealth, in accordance with CMS guidance. And while some provisions of the Medicare hospice statutes also apply to State Medicaid hospice benefits, Medicaid requirements for certification and recertification of hospice eligibility may differ from Medicare.

State Medicaid Hospice Face-to-Face Requirements: Following implementation of the Medicare F2F visit requirement for recertification, some state Medicaid programs also established F2F visit requirements that are similar to Medicare. And some of those states also implemented COVID-related waivers or exceptions, through Executive Orders or other state processes, that allowed those visits to determine continued Medicaid eligibility to be conducted through telehealth. However, these state Medicaid policies and their effective dates vary. NHPCO has become aware that there is confusion around the F2F visit rules as some of these state-specific COVID-19 exceptions and Executive Orders have begun to expire or be rescinded, and some Medicaid programs have indicated that they will be requiring in-person F2F visits to resume.

Clarifying F2F Requirements:

- For **Medicare beneficiaries** who have elected the hospice benefit, **including those who are dual eligible** for Medicare and Medicaid, their hospice benefits are covered by Medicare, and the Medicare F2F visit rules apply, which means these visits can continue to be provided via audio and visual telehealth as long as the PHE remains in effect.

- For **Medicaid recipients** who elect to receive Medicaid hospice services in accordance with the State's Medicaid hospice benefit, any F2F visit requirements will depend on the specific State Medicaid policy, and the terms and status of any COVID-19 orders or exceptions that may have been implemented to allow such visits to be performed through telehealth. NHPCO members should consult with their state hospice association and/or their state Medicaid program for guidance on F2F visits for Medicaid recipients, and any plans to require that in-person visits be resumed.

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