

## Hospice Federal Blanket Waivers (March 30, 2020) Updates as of April 13, 2020 in Red

The following information is based on CMS “Blanket” Waivers effective retrospectively to March 1, 2020 and that end no later than when the COVID 19 PHE (Public Health Emergency) ends. “Blanket” Federal Waivers apply to all hospices, in addition to waivers granted to individual companies. The CMS regulatory language referenced in these waivers follows each statement for clarity as to the scope of the waiver.

### Telehealth •

- Hospices can provide services to a Medicare patient receiving routine home care through telehealth, if it is feasible and appropriate to do so. Telehealth is not solely telephone calls, but live audio/video via a non-public means (Face to Face, Skype, etc.). The key is a matter of professional practice and when a telephone call, live telehealth, or in-person visit is most appropriate to meet the patient’s/family’s needs.
- Telehealth should be documented as any other type of visit, noting the mode of the visit-i.e. how it was conducted – in person, via telehealth, or telephone.
- Encounters for purposes of patient recertification for the Medicare hospice benefit can now be conducted via telehealth.

### On Site 14 Day Hospice Aide Supervision:

- CMS is waiving the requirements at 42 CFR 418.76(h), that requires a nurse to conduct an onsite visit every two weeks and includes waiving the requirements for a nurse or other professional to conduct an onsite visit every two weeks to evaluate if aides are providing care consistent with the care plan, as this may not be physically possible for a period of time.

42 CFR 418.76(h) *Standard: Supervision of hospice aides.* (1) A registered nurse must make an on-site visit to the patient's home.

### April 13, 2020: Pseudo-Patients May Be Used in Hospice Aide Competency:

- During the PHE, hospices may utilize pseudo patients - such as a person in a role-play situation or a computer-based mannequin device - to test the competency of hospice aides in those tasks that currently must be observed being performed on an actual patient.

42 C.F.R. 418.76(c)(1): *Standard: Competency Evaluation.* An individual may furnish hospice aide services on behalf of a hospice only after that individual has successfully completed a competency evaluation program as described in this section.

- (1) The competency evaluation must address each of the subjects listed in paragraph (b)(3) of this section. Subject areas specified under paragraphs (b)(3)(i), (b)(3)(iii), (b)(3)(ix), (b)(3)(x) and (b)(3)(xi) of this section must be evaluated by observing an aide's performance of the task with a patient. The remaining subject areas may be evaluated through written examination, oral examination, or after observation of a hospice aide with a patient.

**April 13, 2020: 12-hour annual in-service training requirement for hospice aides waived.**

- **CMS has waived the hospice requirement that each hospice aide receives 12 hours of in-service training in a 12-month period.**

**42 C.F.R. 418.76(d). Standard: In-service training.** A hospice aide must receive at least 12 hours of in-service training during each 12-month period. In-service training may occur while an aide is furnishing care to a patient.

**Hospice Volunteers:**

- **Waiving the requirement at 42 CFR §418.78(e) that hospices are required to use volunteers (including at least 5% of patient care hours). It is anticipated that hospice volunteer availability and use will be reduced related to COVID-19 surge and anticipated quarantine.**

42 CFR §418.78(e): Volunteers must provide day-to-day administrative and/or direct patient care services in an amount that, at a minimum, equals 5 percent of the total patient care hours of all paid hospice employees and contract staff. The hospice must maintain records on the use of volunteers for patient care and administrative services, including the type of services and time worked.

**Hospice Comprehensive Assessment Timing:**

- **Hospices continue to complete the comprehensive assessment, the timeframes for updating the assessment may be extended from 15 to 21 days.**

42 CFR §418.54(d): The update of the comprehensive assessment by the hospice interdisciplinary group (in collaboration with the individual's attending physician, if any). The assessment update must be accomplished as frequently as the condition of the patient requires, but no less frequently than every 15 days

**Hospice Therapies**

- **Waiving the requirement for hospices to provide non-core hospice services during the PHE, including the requirements at 42 CFR §418.72 for physical therapy, occupational therapy, and speech-language pathology.**

42 CFR §418.72: Physical therapy services, occupational therapy services, and speech-language pathology services must be available, and when provided, offered in a manner consistent with accepted standards of practice.

**Accelerated/Advanced Payment:**

- **An accelerated/advance payment is intended to provide necessary funds when there is a disruption in claims submission and/or claims processing. During the PHE any Medicare provider/supplier who may submit a request to the appropriate Medicare Administrative Contractor (MAC). Each MAC will work to review requests and issue payments within seven calendar days of receiving the request.**
- **CMS has extended the repayment of these accelerated/advance payments to begin 120 days after the date of issuance of the payment. Providers can get more information on this process here:**

[www.cms.gov/files/document/Accelerated](http://www.cms.gov/files/document/Accelerated)

### Delaying Cost Reports:

- For the following fiscal year end (FYE) dates are extended to June 30, 2020.
  - FYE 10/31/2019 cost reports due by March 31, 2020 and
  - FYE 11/30/2019 cost reports due by April 30, 2020.
- Delaying the filing deadline of the FYE 12/31/2019 cost reports due by May 31, 2020 is extended to July 31, 2020.

### Medical Claims Review

- CMS has suspended the following medical reviews for the duration of the PHE:
  - most Medicare Fee-For-Service (FFS) medical review during the emergency period (MACs) under the Targeted Probe and Educate program –
    - any reviews in process will be suspended and claims released and paid.
  - post-payment reviews conducted by the MACs, Supplemental Medical Review Contractor (SMRC) reviews and Recovery Audit Contractor (RAC)
    - Reviews are suspended and released
  - Additional Documentation Requests (ADRs) will not be sent during the PHE pause,
  - ADRs issued before the PHE pause will be released and processed as normal.
- CMS may conduct medical reviews during or after the PHE if there is an indication of potential fraud.  
<https://www.cms.gov/files/document/provider-burden-relief-fags.pdf>

### Appeals - Medicare Advantage (MA) and Medicare Fee-for-Service (FFS):

- MA plans may extend the timeframe to adjudicate organization determinations and reconsiderations for medical items and services (but not Part B drugs) by up to 14 calendar days if:
  - the enrollee requests the extension;
  - the extension is justified and in the enrollee's interest due to the need for additional medical evidence from a noncontract provider that may change an MA organization's decision to deny an item or service; or,
  - the extension is justified due to extraordinary, exigent, or other non-routine circumstances and is in the enrollee's interests
- FFS MACs and QICs (qualified independent contractors). MA and Part D plans, as well as the Part C and Part D IREs may:
  - process an appeal even with incomplete Appointment of Representation forms, however, any communications will only be sent to the beneficiary; •
  - process requests for appeal that don't meet the required elements using information that is available; and,
  - to utilize all flexibilities available in the appeal process as if good cause requirements are satisfied.

Additional Guidance • The Interim Final Rule and waivers can be found at: <https://www.cms.gov/about-cms/emergency-preparednessresponse-operations/current-emergencies/coronavirus-waivers>.

April 13 2020 Guidance: <https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>