

CMS Issues Clarification to Hospice Face-to-Face Encounter Requirement

CMS has issued CR7337 to include exceptional circumstances for the face-to-face encounter requirement for new hospice admissions in the third or later benefit period. In cases where a hospice newly admits a patient who is in the third or later benefit period, **exceptional circumstances** may prevent a face-to-face encounter from being conducted prior to the start of the benefit period.

- **Requirements:**
 - New hospice admission
 - Third or later benefit period
 - Exceptional circumstance
- **Timing:**
 - ONLY if the above requirements are met and documented:
 - Face-to-face encounter which occurs **within 2 days** after admission will be considered timely.
 - If the patient dies within 2 days of admission without a face-to-face encounter, the encounter will be deemed complete.
- **Examples (as provided by CMS):**
 - The patient is an emergency weekend admission and it may be impossible for a hospice physician or NP to see the patient until the following Monday, or
 - CMS data systems are unavailable and the hospice may be unaware that the patient is in the third benefit period, or
 - Other exceptional circumstances as documented by the hospice.
- **Documentation requirements:** Documentation will be required for the exceptional circumstance that prevented the face-to-face encounter from being conducted in a timely way.

CMS was very clear in the Open Door Forum on March 2, 2011 that the expectation is that the hospice would do the face to face encounter before the start of the third benefit period. This exceptional circumstance provision is meant to address concerns for 11th hour admissions, weekend admissions and other exceptional circumstances.

CMS has also been very clear that in the absence of an exceptional circumstance, **failure to meet the face-to-face encounter requirements results in a failure by the hospice to meet the patient's recertification of terminal illness eligibility requirement and the patient would cease to be eligible for the benefit.** NHPCO has worked collaboratively with NAHC in pressing for these changes, among others and expects to see additional clarifications and CMS questions/answers on face to face posted very soon.

Additional Manual Updates

CMS included the existing hospice CoP policies as an update to the manual. These are not changes, but rather updates to existing Conditions of Participation. The updates include:

- Policies related to bereavement, clarifying the purpose of the service and the timeframe for its performance (from admission through 12 months after the patient's death).

- Personnel requirements for hospice aides and homemakers, requiring these individuals to receive appropriate education, training, and skills assessment prior to performing patient care duties.
- Clarification that all physicians, whether they are direct employees or under contract with a hospice, must provide services under the supervision of the hospice's medical director.
- Inclusion of the list of core services that must be routinely provided by hospice employees as well as the circumstances under which a hospice may contract for these services (extraordinary circumstances and highly specialized nursing services).
- Inclusion of a list of non-core services that may be provided directly by hospice employees or under contract, as well as information about a waiver for providing certain non-core services on a 24-hour basis.

The CMS revisions Pub. 100-02, Medicare Benefit Policy Manual, chapter 9, to include existing policies which were implemented through notice-and-comment rulemaking, and to make minor technical corrections to the chapter. To view CR 7337 in its entirety, [click here](#). Inquiries about this Alert or any other Regulatory issues may be directed to regulatory@nhpco.org.