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Hospice Physician Billing for Medically Necessary Procedures

Changes in the hospice Conditions of Participation, once finalized, will clearly emphasize the role of medical directors and there are, increasingly, a complex array of regulatory and reimbursement issues associated with hospice physicians. As the role of medical directors and hospice physicians increases, and direct care provided by the medical director or other hospice physician becomes increasingly part of hospice patients' care plans, it is important that hospices be aware of the importance of accurate billing for medically necessary procedures.

The role of the medical director and other hospice physicians with regard to the direct care provided to patients is clearly on the rise for a variety of reasons. In some cases, a hospice patient does not have a separate attending physician, in which case a hospice physician must provide direct care to the hospice patient as required by that patient's plan of care. In other situations, the attending physician does not have the appropriate skill-set to provide all of the direct care that the hospice patient needs, or the hospice has an inpatient unit where the attending physician is either not willing or able to make regular visits. The Medicare conditions of participation clearly require the medical director and other hospice physicians to meet the general medical needs of hospice patients to the extent that those needs are not met by the patient's attending physician.[1]

Whether the hospice employs or contracts with the physician, the duties of the medical director and other hospice physicians should be very clearly outlined.[2] As set forth in the hospice regulations, the hospice physician may not bill Part B for what would normally be Part B services. Rather, the hospice bills Part A and reimburses the physician.[3] The terms of such payment should be included in the contract with the hospice physician.

Hospices are taking very different approaches to the provision of direct care by their medical director and other hospice physicians. Clearly, this is the situation where one size does not fit all. However, there are a number of important considerations for all hospices in deciding what care will be provided and how it will be billed.

First, as stated above, the hospice has an affirmative obligation to provide direct care if there is no other attending physician or if the attending physician is unwilling or unable to do so.[4] In some cases, the hospice physician will be the

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attending physician; in other cases, the hospice physician may be brought in as "consultant." Either way, the documentation should be clear that direct care is necessary. The interdisciplinary plan of care should set forth the individualized need for such care. Hospices are advised not to automatically schedule a visit for every new patient, for example. Since each patient's circumstances are unique, the plan of care should be individualized.[5] Also, if the patient has an attending physician who is not employed by or under contract with the hospice, there should be an order from the attending physician for the hospice physician's consultation. This is important because the conditions of participation require that the attending physician be included in the care planning process.[6] There is also a Medicare requirement that a request for a consultation and the need for consultation be included in the requesting physician's plan of care in the patient's medical record.[7] Not only should the plan of care clearly set forth the need for direct physician care and the involvement of the attending physician if that physician is not a hospice employee or contracted physician, the coding for any physician visits billed by hospice should follow proper Part B billing and coding procedures.

Hospices have not historically been experts in Part B billing. However, with the rapid increase in the number of physician visits billed by hospices, it is critical that hospices understand correct billing and coding. Some hospices have audited their billing and coding procedures, working with outside Part B billing experts. Jean Acevedo, principal of Acevedo Consulting, Incorporated, one such consulting firm, provides these key considerations for hospices: "Evaluation and Management (E/M) Services are the most common form of Part B services provided by the hospice physician. E/M Services' documentation and coding are not well understood by physicians or billing staff, and the Medicare program continues to audit and recoup monies where errors have been made. Education, auditing and monitoring are key to avoiding a request from the Medicare program for monies paid to be returned."

Brian Hoag, a hospice consultant who is also a CFO, provides this advice to hospices with regard to increased billing for physician visits:

> "Proper involvement of the hospice medical director and hospice physicians are key to providing appropriate care direction, particularly in the inpatient care setting. Physician visit setting, frequency and duration determine proper coding of physician charges while the physician's charting is the critical support element for proper reimbursement of these services. The advancement of

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> hospice into ever more complex cases increases the use of physician consultants in many areas of expertise, each of whom need to bill through hospice—which is a challenge to hospice and physicians. Each of these issues require hospice to become more expert and proactive in developing physician communication, documentation and billing processes."

Finally, the documentation regarding the need for the visits should be set forth clearly, so that care plans continue to be individualized and the role of the non-hospice attending physician is clearly present in consulting referrals.

In years past, it was rare for a hospice to bill for physician visits. It may have occurred only in the situation where the part-time hospice medical director also had a pre-existing relationship with a patient who then was referred to the hospice. Today, the patient needs are increasing in complexity and the role of medical directors and other hospice physicians has never been more important. Specific questions with regard to physician billing may also be addressed directly to each hospice's Medicare fiscal intermediary, or RHHI. The important thing to remember is that good patient care requires excellent documentation of individualized care plans, appropriate coordination with attending physicians and knowledge of Part B billing and coding.

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[1] See 42 C.F.R. § 418.86.
[2] See *Medical Director and Physician Contracting Toolkit for Hospice and Palliative Care*, Reinhart Boerner Van Deuren s.c. 2006, available through NHPCO Marketplace.
[3] See 42 C.F.R. § 418.304.
[4] See 42 C.F.R. § 418.86.
[5] See 42 C.F.R. §418.58.
[6] See *id*.
[7] CMS Transmittal R788CP.

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