

Nurse Practitioners – Utilization of Nurse Practitioners in Medicare Hospices

The Centers for Medicare and Medicaid Services ("CMS") released a Program Memorandum on June 20, 2003 (the "Memorandum") addressing nurse practitioner services for Medicare hospices. The Memorandum describes the limitations on the services provided by nurse practitioners under the hospice Medicare conditions of participation and reinforces the fact that the scope of practice boundaries for nurse practitioners are a function of state law. Although the Memorandum does not introduce any new interpretations, it does restate the role of nurse practitioners in Medicare hospices across the country.

The hospice conditions of participation do not specifically address the role of nurse practitioners, however, they do specify certain activities that *must* be performed by a physician. For example, 42 CFR § 418.22 requires that initial certification of terminal illness be obtained from the medical director or physician member of the hospice interdisciplinary group and the individual's attending physician. In addition, 42 CFR § 418.58 indicates that the plan of care must be established and updated by the attending physician, medical director or physician designee and the interdisciplinary group. The Memorandum explains that although the conditions of participation require that physicians perform certain activities, nurse practitioners may provide other treatment and services for patients, such as writing orders, provided that the nurse practitioner is permitted to provide such services under state law. Because the conditions of participation do not specifically address the role of nurse practitioners separate from the role of the registered nurse, nurse practitioners may participate in the interdisciplinary group as the designated registered nurse.

Although nurse practitioners may provide certain services to hospice patients, such services are not separately billable under the Medicare Part A Hospice Benefit, or Medicare Part B (for those patients receiving the Medicare Hospice Benefit), which is limited to services provided by attending physicians that are neither employed by nor under contract with the hospice. However, provided that state law, including hospice licensing requirements, is not prohibitive, a hospice may choose to expand the services it offers to programs outside of hospice services. For example, a hospice may offer non-hospice patients palliative care services from a nurse practitioner. In this case, the nurse practitioner, who may or may not be an employee of the hospice, may, if all necessary conditions are met,

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bill Medicare Part B for such services. In such cases, both the practitioner and the employer must be properly certified as Part B providers.

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