Discharge, Revocation and Transfer: Process, ABN and Appeals

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Objectives for Today’s Session

• Examine the regulatory requirements for hospice revocations, transfers and discharges
• Discuss the new discharge reason and code
• Discuss patient/family considerations
• Describe when to issue the ABN and NOMNC and components of expedited review

Important Reminder!

• Today’s material is specific to the content of the Medicare Hospice Benefit
• Each state has its own licensing rules — you need to review and follow the more stringent of the rules

Discharge – the regulations

• Subpart B -
  – 418.26 Discharge from hospice care
  – 418.28 Revoking the election of hospice care
  – 418.30 Change of hospice provider

• CoPs – Part D
  – § 418.104 Condition of participation: Clinical records

418.26 – Discharge from Hospice Care

• Reasons for hospice discharge:
  – Patient moves out of the hospice’s service area or transfers to another hospice;
  – The hospice determines that the patient is no longer terminally ill; or
  – The hospice determines that the patient’s (or other persons in the patient’s home) behavior is disruptive, abusive, or uncooperative

✓ Discharge is a hospice decision

418.26 – Discharge from Hospice Care

• When discharging patient for these reasons:
  – Hospice must obtain a written physician’s discharge order from the hospice physician
  – Attending physician should be consulted before discharge and his or her review and decision included in the discharge note
Discharge for Leaving Service Area

- Hospice must obtain a written physician’s discharge order from the hospice physician
- Attending physician should be consulted before discharge and his or her review and decision included in the discharge note
- Discharge planning completed by hospice provider

CR 7677 – New Hospice Condition Code

- Condition Code 52 – Out of Service Area Discharge
  - Examples of uses for condition code 52 include, but are not limited to:
    - When a hospice patient moves to another part of the country;
    - When a hospice patient leaves the area for a vacation (optional...not required)
    - When a hospice patient is admitted to a hospital or SNF that does not have a contractual arrangement with the hospice.

CR 7677 – New Hospice Condition Code

- Occurrence Code 42 – Patient Revocation
  - Discontinue use of occurrence code 42 for situations when a provider initiates the termination of hospice care
    - Only use occurrence code 42 to indicate a discharge due to a patient revocation
    - Effective date: July 1, 2012

CR 7677 – New Hospice Condition Code

- Why a new code?
  - Distinguish between a revocation and a hospice-initiated discharge on hospice claims
  - Help CMS understand different patterns of hospice care and their associated costs
  - "Possible program vulnerability when a patient is discharged from the hospice benefit, has an intervening hospital stay, and then is readmitted to the hospice benefit

- Effective date: July 1, 2012
Discharge Codes

<table>
<thead>
<tr>
<th>Discharge Reason</th>
<th>Coding Required in Addition to Patient Status Code</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beneficiary revokes</td>
<td>Occurrence Code 42</td>
<td>ONLY for revocation</td>
</tr>
<tr>
<td>Beneficiary transfers to another hospice</td>
<td>Patient Status Code 50 or 51</td>
<td>Does not terminate patient’s current benefit period</td>
</tr>
<tr>
<td>Beneficiary no longer terminally ill</td>
<td>No other indicator necessary</td>
<td>This is applicable for a discharge related to a missed face-to-face visit</td>
</tr>
<tr>
<td>Beneficiary discharged for cause</td>
<td>Condition Code H2</td>
<td>Used when patient meets agency policy for discharge for cause</td>
</tr>
<tr>
<td>Beneficiary moves out of service</td>
<td>Condition Code 52</td>
<td>• Moves out of service area</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• On vacation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Admitted to hospital or SNF where hospice does not have a contract</td>
</tr>
</tbody>
</table>

Discharge Planning

• Refer to follow up medical services; examples could include:
  – Attending physician
  – Home health care
  – Outpatient therapy

• Refer to follow up counseling services

• Educate patient/family regarding:
  – Medications, treatments, supplies, etc…
  – Follow up with referrals and attending physician
  – Re-election of hospice services in the future

• If patient elects hospice in the future, they are admitted to the next benefit period

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Case Study

• 78 year old male with Alzheimer’s
• Urinary retention due to (BPH) diagnosed 20 yrs
• Patient/family chose admission to non-contracted hospital for treatment
• Days in hospital 12 – IDG meets to discuss next steps

Polling Question:

Should the IDT discharge patient?

• Yes
• No

Discharge for no longer terminally ill

• Discharge when a patient is no longer terminally ill should never be a surprise or a last minute event for the IDG
• Consistent evaluative lead up to determination to discharge for this reason should have been over a period of time
• Discussion of disease plateau should have been discussed with patient and family prior to notice of discharge

Discharge - No Longer Terminally Ill

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Patient/ Family Considerations

- Add information to your patient handout materials:
  - Patient will be discharged if hospice physician deems patient as no longer terminally ill in their medical judgment
  - Patient has the right to appeal the discharge decision
  - Hospice will provide discharge planning prior to discharge
- Review information at intervals with the patient and family

Discharge-No Longer Terminally III

- The notification:
  - A 2-day minimum notice of discharge provided to patient / family
  - If state regulations require more than 2 days discharge notice, then the hospice follows the more stringent requirement

Discharge-No Longer Terminally III (cont.)

- Discharge planning:
  - Plan for any necessary counseling, patient education, or other services
- CMS notes, “Discharge is not expected to be the result of a single moment that does not allow time for some post-discharge planning”
  - When IDG is following their patient, and if there are indications of improvement in the individual’s condition such that the patient may soon no longer be eligible, then discharge planning should begin
  - Discharge planning is expected to be a process, and planning should begin before the discharge date

Notice of Medicare Non-Coverage

- Hospice issues the UPDATED Notice of Medicare Non-Coverage form (NOMNC) Form CMS-10123
  - This notice informs the patient that Medicare probably will not pay for hospice because they no longer meet hospice criteria
  - Form must be verbally reviewed with beneficiary/representative and signed by such
  - Applicable forms:

The UPDATED Notice Of Medicare Non-Coverage form

[Blank paper with text and diagrams]
Discharge - No Longer Terminally II

1. Hospice consults with patient’s attending physician
2. Hospice provides NOMNC CMS 10123
3. Patient/family do NOT agree with discharge and file an appeal with QIO
4. Hospice holds discharge planning until opinion from QIO issued

Hospice issues Detailed Explanation of Non-Coverage (Form CMS 10124)

Expedited Review

- The QIO is responsible for immediately contacting the provider if a beneficiary requests an expedited review and then making a decision no later than 72 hours after receipt of the beneficiary’s request
- The provider is responsible for providing the QIO with a detailed explanation of why coverage is ending
- The provider may need to present additional information to the QIO for the QIO to use in making a decision

Notice of Medicare Provider Non-coverage - Detailed

- The UPDATED Detailed Explanation of Non-coverage form -- Form CMS-10124
  - Provided to the beneficiary/representative by the hospice when the family has appealed to the state’s Quality Improvement Organization (QIO)
  - Form must verbally reviewed with beneficiary/representative and signed by such
  - The decision from the QIO is binding
  - Form and instructions are available at:

Expedited review, cont...

- If the QIO sustains the decision to terminate/discharge services, the beneficiary may request expedited reconsideration, orally or in writing, by noon of the calendar day following initial notification
- Expedited reconsiderations are to be conducted by the “appropriate” Qualified Independent Contractor, or QIC

Expedited Review, cont...

- CMS clarified that the decision of the QIO is final when the QIO disagrees with the hospice when a patient is discharged and appeals the discharge
  - FY 2012 Hospice Wage Index final rule
Discharge-No Longer Terminally Ill

- Hospice consults with patient’s attending physician
- Hospice provides NOMNC
- Patient/family appeals and QIO upholds but P/F wishes to continue care
- Hospice completes discharge planning; hospice physician writes discharge order

NOMNC issued (Form CMS 10123) and ABN (Form CMS-R-131) issued

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Issuance of the ABN

- Mandatory use of the ABN is very limited for hospices
- If upon discharge the patient wants to continue receiving hospice care that will not be covered by Medicare, the hospice would issue an ABN to the beneficiary in order to transfer liability for the non-covered care to the beneficiary
- The ABN must be verbally reviewed and any questions raised during that review must be answered before it is signed

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The ABN Form

• The Advance Beneficiary Notice form
  – Form CMS-R-131
  – The latest version of the ABN (with the release date of 3/2011 printed in the lower left hand corner) is now available for immediate use
  - Revised ABN CMS-R-131 Form and Instructions [zip, 58kb]
  - Revised ABN Manual Instructions [pdf, 316kb]
  - Revised ABN CMS-R-131 Implementation Announcement [pdf, 9kb]

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Issuance of the ABN

• Must be delivered far enough in advance that the beneficiary or representative has time to consider the options and make an informed choice (2 day minimum)
• Once all blanks are completed and the form is signed, a copy is given to the beneficiary or representative
• In all cases, the notifier must retain the original notice on file

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The ABN Form

• How do you track and follow up on these discharges?
• Important to track live discharges
  – Better understand clinical disease course
  – Readmission
• Benchmarks – NHPCO’s NDS survey

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Discharge for Cause

• Before discharging a patient for cause:
  – Advise the patient that a discharge for cause is being considered
  – Make a serious effort to resolve the problem(s) presented by the patient’s behavior or situation
  – Document the problem(s) and efforts made to resolve the problem(s) and enter this documentation into its medical records

• Discharge for cause can never be for:
  – Financial issues (i.e.: costs for care are high)
  – Because the hospice does not like the patient or family

Examples of Discharge for Cause

• Cases where patients consistently refuse to permit the hospice to visit or deliver care
• It is dangerous for staff to visit the home
• Patient repeatedly leaves the service area

Discharge for Cause

• CMS requirement-effective January 2009 required to identify discharge for cause on hospice claim form
  – H2 condition code
• Providers required to report patients discharged for cause to:
  – State survey agency
  – MAC

Polling Question:

Have you been reporting discharge for cause patients to your state survey agency and MAC?

• Yes
• No
Case Study-for Cause

• 40 year old male with gastric CA
• Documented history of drug-abuse and medication seeking behaviors
• Documented history of violence
• Behavior contract signed
• Witnessed aggression toward hospice nurse
• Repeated non-compliance with pain medication regimen and breach of behavior contract
• Discharge for cause initiated with attending physician involvement and approval

Case Study - Discussion

• 58 year old female with Stage IV Lung CA
• Severe edema, ascites, dyspnea, pain
• Pleurix catheter becomes non-functioning
• Physician wants studies to determine cause
• Patient/Family only want admission to their local hospital who does not have contract with hospice

418.28 Revoking the Election of Hospice Care

• A patient may revoke their election of the hospice benefit at any time by filing a signed statement and the date the revocation is to be effective which can be no earlier than the date the revocation is made
  – Upon revocation the patient resumes Medicare coverage of benefits waived at election of hospice

Case Study – Discussion Questions

• What are hospices next steps?
• What are patient/family options?
• What education and counseling is required?
• Which forms might be used/required and what is the rationale?
• What is the billing code?
• What documentation is required in the hospice record?

Important Points - Revocation

• Can only be done by the patient or his/her representative
• Must be done in writing—no accommodation for a verbal revocation
• Cannot backdate a revocation
• A hospice may never “revoke a patient’s” hospice benefit
• A hospice has a responsibility to counsel the beneficiary on the availability of revocation
Important Points – Revocation, cont...

- The beneficiary does not have to provide a reason for revocation
- Hospice documentation should include the circumstances around the revocation
- The patient is free to re-elect hospice at any time
  - There must be at least one calendar day between as CMS Common Working File cannot accommodate same day revocation and discharge

Who initiates?

- Discharges
  - Hospice takes action
- Revocations
  - Patient takes action
- Transfers
  - Patient takes action

418.30 Change of Designated Hospice

- A patient may change or transfer hospices once in a benefit period by filing a statement with the current and new hospice and the effective date
- Cannot transfer hospices again in the same period
  - Must revoke from the current hospice and elect with the new hospice

Benefit Period

- 90, 90, unlimited 60 day periods
  - Discharges
    - Start new/next benefit period when re-elect
  - Revocations
    - Start new/next benefit period when re-elect
  - Transfers
    - Only 1x per benefit period
    - If second time in benefit period, discharge and readmit in next benefit period

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Questions

Thank you for attending and make it a great day!

Resources

CMS Hospice Center
  - Hospice Care Amendments (CMS-1022-F)
    (issued November 22, 2005)
  - Conditions of Participation Hospice
  - Medicare Benefit Policy Manual; Chapter 9 - Coverage of Hospice Services

CMS Beneficiary Notices Initiative

NHPCO Regulatory Page