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INFORMATIONAL LETTER #2010-01

DATE: May 11, 2010

TO: ADMINISTRATORS OF ALL IDAHO:
• SKILLED NURSING FACILITIES
• INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL RETARDATION
• HOSPICE AGENCIES

FROM: DEBBY RANSOM, R.N., R.H.I.T., Chief
Bureau of Facility Standards

SUBJECT: **Hospice Services in Medicare- and Medicaid-Certified Facilities**

Over the last year there have been questions raised by providers regarding the roles and responsibilities of hospice agencies and facilities when residents select the Hospice benefit.

Enclosed is a letter from Steven Chickering, Western Consortium Survey and Certification Officer, which was developed to clarify the provision of hospice services to residents in Medicare- and Medicaid-certified facilities.

If you have questions, please contact Loretta Todd, RN, or Lorene Kayser, LSW, QMRP, Co-Supervisors for Long Term Care, or Nicole Wisenor, QMRP, or Sylvia Creswell, LSW, QMRP, Co-Supervisors for Non-Long Term Care at 208 / 334-6626.

DEBBY RANSOM, R.N., R.H.I.T., Chief
Bureau of Facility Standards

DR/nm
Enclosure



DEPARTMENT OF HEALTH & HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES
Consortium For Quality Improvement and Survey & Certification Operations
Western Consortium – Division of Survey & Certification

5/1/10

Dear Provider:

The purpose of this memo is to clarify the provision of hospice services to residents of Medicare and Medicaid-certified facilities. The information below summarizes fundamental requirements pertaining to the hospice benefit, clarifies responsibilities of the hospice and of the facility, and communicates surveyor actions when issues are identified.

Key Concepts: Medicare Hospice Benefit

- Patient must be enrolled in and entitled to Medicare Part A.
- Patient must elect the Medicare hospice benefit.
- Hospice medical director and the patient's attending physician (if patient has one) must certify that the patient's life expectancy is six months or less if the terminal illness runs its normal course; clinical documentation must support that determination.

Medicare-Certified Hospice That Provides Hospice Services to Long-term Care Facility Residents

The revised Medicare Hospice Conditions of Participation were effective December 2, 2008. The Condition of Participation at 42 CFR 418.112 details specific requirements for hospices that provide services to residents of a SNF/NF (Medicare/Medicaid certified nursing facility) or ICF/MR (Intermediate Care Facility for Persons with Mental Retardation). A summary of the Medicare/Medicaid requirements includes but is not limited to the following. Note that the phrase, "long-term care facility," rather than "SNF/NF or ICF/MR," will be used throughout the rest of this document.

- Hospice patients living in a long-term care facility must meet hospice eligibility criteria.
- The hospice must assume responsibility for professional management of the resident's hospice care related to the terminal illness.
- The hospice and long-term care facility must have a signed written agreement before hospice services are provided. The agreement must be comprehensive and specify both hospice and long-term care facility requirements related to communication, care planning, and services provided. One of the requirements for the long-term care facility is to meet the personal care and nursing needs that were or would have been provided at home prior to the resident electing the hospice benefit. Conversely, the hospice is expected to provide hospice services at the same level and extent as would be provided to a hospice patient living in his

or her own home. Hospice services are provided as necessary for management of the resident's terminal illness and related conditions. These services include provision of durable medical equipment, medical supplies, and medications; spiritual, dietary, and bereavement counseling; social work; medical direction; nursing, therapy, and hospice aide services; and volunteer services. The written contract should specify how needed services are available 24 hours/day, 7 days/week.

- The hospice must develop and maintain a written plan of care for each patient that is coordinated with the long-term care facility and, to the extent possible, with the patient and family. Changes in the hospice plan of care must be discussed with the patient or representative and long-term care staff, and approved by the hospice prior to implementation.
- A member of the hospice interdisciplinary group must oversee, communicate, and coordinate services with the long-term care facility. Responsibilities include assuring that hospice and long-term care plans are coordinated and consistent with the resident's goals, assuring continuity of communication and access to information in the clinical record, addressing the role of the attending physician and process for obtaining and implementing physician orders, and assuring a functional system for obtaining and administering medications and supplies.
- The hospice must assure that long-term care facility staff are oriented to hospice care.
- The hospice must provide the long-term care facility with the following documents for each patient: current hospice plan of care, hospice election form, advance directives, physician certification and recertifications, names and contact information for assigned personnel, instructions for accessing the hospice on-call system, medication information, and specific physician orders.

Medicare-Certified Long-term Care Facility Requirements When a Resident Receives Hospice Services

Each entity retains responsibility for meeting their regulatory requirements. When a resident elects the hospice benefit, the long term care facility must continue to meet the regulatory requirements outlined in 42 CFR 483.5.

CMS policy and guidance regarding hospice care to long-term care facility residents includes revised interpretive guidance for 42 CFR 483.25 (F309) effective March 1, 2009 and CMS Survey and Certification Policy Memo 2-29 dated 5/10/02. Both documents emphasize the requirement for a coordinated plan of care between the hospice and long-term care facility. The F309 Interpretive Guidance includes the following bullets:

- "The facility's services are consistent with the plan of care developed in coordination with the hospice, (the hospice patient residing in a SNF/NF should not experience any lack of SNF/NF services or personal care because of his/her status as a hospice patient); and
- The SNF/NF offers the same services to its residents who have elected the hospice benefit as it furnishes to its residents who have not elected the hospice benefit.
- If a resident is receiving services from a Medicare certified hospice and the hospice was advised of concerns by the facility and failed to address and/or resolve issues related to coordination of care or implementation of appropriate services, refer the

concerns as a complaint to the state agency responsible for oversight of this hospice identifying the specific resident(s) involved and the concerns identified.”

NOTE: Long-term care regulations beginning at 42 CFR 483.5 (Appendix PP) have not been revised to reflect the revised hospice regulations pertaining to provision of hospice services to residents of a SNF/NF.

ICF/MR Facility Requirements When a Resident Receives Hospice Services

Each entity retains responsibility for meeting their regulatory requirements. When a resident elects the hospice benefit, the facility must continue to meet the regulatory requirements outlined in 42 CFR 440.150.

NOTE: ICF/MR regulations beginning at 42 CFR 440.150 (Appendix J) have not been revised to reflect the revised hospice regulations pertaining to provision of hospice services to residents of an ICF/MR.

Surveyor Actions for Long-Term Care or ICF/MR surveys:

- The focus of long-term care or ICF/MR surveys is compliance with the long-term care or ICF/MR regulations. Deficient practice will be cited at the appropriate regulatory tag.
- If long-term care or ICF/MR surveyors identify potential hospice deficient practice, a complaint will be initiated with the state agency responsible for hospice surveys.
- If long-term care or ICF/MR or hospice surveyors identify potential long-term care, ICF/MR, or hospice fraud, the issue will be referred to the CMS Regional Office for appropriate follow-up and possible referral for fraud investigation.

Sincerely,



Steven Chickering
Western Consortium Survey and Certification
Division of Survey and Certification