

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services



April is Alcohol Awareness Month - Seniors and others covered by Medicare can be screened for alcohol misuse under *the Screening and Behavioral Counseling Interventions in Primary Care to Reduce Alcohol Misuse* benefit. [Read more](#) to learn about coverage for this service.

MLN Matters® Number: MM9114 Revised Related Change Request (CR) #: CR 9114

Related CR Release Date: May 8, 2015 Effective Date: October 1, 2014

Related CR Transmittal #: R209BP Implementation Date: May 4, 2015

Updates on Hospice Election Form, Revocation, and Attending Physician

Note: This article was changed on May 14, 2015, to reflect an updated Change Request (CR) 9114. That CR revised the effective date of the CR and to clarifies the types of information that the hospice should use to identify the attending physician or nurse practitioner on the election statement (Page 2 below). The CR Release Date, transmittal number and the link to the CR also changed. All other information remains the same.

Provider Types Affected

This MLN Matters® Article is intended for physicians, other providers, and suppliers submitting claims to Home, Health, and Hospice Medicare Administrative Contractors (HH&H MACs) for services provided to Medicare beneficiaries.

Provider Action Needed

CR 9114 informs MACs about the implementation of changes finalized in the Fiscal Year (FY) 2015 hospice rule regarding hospice election, revocation, and designation of attending physician. These changes are detailed in the revised portion of the “Medicare Benefit Policy Manual,” which is attached to CR9114. Make sure that your billing staffs are aware of these changes.

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Background

Upon electing hospice care, the beneficiary waives the right to Medicare payment for any Medicare services related to the terminal illness and related conditions during a hospice election, except when provided by, or under arrangement by, the designated hospice or individual's attending physician if he/she is not employed by the designated hospice (42 CFR 418.24(d)). Prompt filing of the Notice of Election (NOE) with the MAC is required to properly enforce this waiver, and prevent inappropriate payments to non-hospice providers. The effective date of hospice election is the same as the hospice admission date.

Choosing an Attending Physician

Hospice beneficiaries have the right to choose their attending physician. Attending physician means a—

- (1)(i) Doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he or she performs that function or action; or
 - (ii) Nurse Practitioner (NP) who meets the training, education, and experience requirements as described in Section 410.75 (b) of [42 CFR 410](#).
- (2) A physician identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care. ([42 CFR 418.3](#))

The election statement must include the patient's choice of attending physician. The information identifying the attending physician should be recorded on the election statement in enough detail so that it is clear which physician or NP was designated as the attending physician. This should include, but is not limited to, the attending physician's full name, office address, National Provider Identifier (NPI) or any other detailed information. Hospices have the flexibility to include this information on their election statement in whatever format works best for them, provided the content requirements in [Section 418.24\(b\)](#) are met. The language on the election form should include an acknowledgement by the patient (or representative) that the designated attending physician was the patient's (or representative's) choice.

If a patient (or representative) wants to change his or her designated attending physician, he or she must follow a procedure similar to that which currently exists for changing the designated hospice. Specifically, the patient (or representative) must file a signed statement with the hospice that identifies the new attending physician in enough detail so that it is clear which physician or NP was designated as the new attending physician. The statement must include the date the change is to be effective, the date that the statement is signed, and the patient's (or representative's) signature, along with an acknowledgement that this change in the attending

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physician is the patient's (or representative's) choice. The effective date of the change in attending physician cannot be earlier than the date the statement is signed.

Timely Filing of the NOE

Remember that timely-filed hospice NOEs must be filed within five calendar days after the hospice admission date. A timely-filed NOE is a NOE that is submitted to the MAC and accepted by the MAC within five calendar days after the hospice admission date. In instances where a NOE is not timely-filed, Medicare will not cover and pay for the days of hospice care from the hospice admission date to the date the NOE is submitted to, and accepted by, the MAC. These days are a provider liability, and the provider shall not bill the beneficiary for them.

Example 1: The date of hospice election is October 1. A timely-filed NOE would be submitted and accepted by the MAC on or before October 6.

Example 2: The date of hospice election is October 1. The NOE was not submitted and accepted by the MAC until October 10. Provider liable days would be October 1 through October 9.

If a hospice fails to file a timely-filed NOE, it may request an exception which, if approved, waives the consequences of filing a NOE late. The four circumstances that may qualify the hospice for an exception to the consequences of filing the NOE more than five calendar days after the hospice admission date are as follows:

1. Fires, floods, earthquakes, or other unusual events that inflict extensive damage to the hospice's ability to operate;
2. An event that produces a data filing problem due to a Centers for Medicare & Medicaid Services (CMS) or MAC systems issue that is beyond the control of the hospice;
3. A newly Medicare-certified hospice that is notified of that certification after the Medicare certification date, or which is awaiting its user ID from its MAC; or
4. Other circumstances determined by the MAC or CMS to be beyond the control of the hospice.

Termination of Hospice Care and Resuming Medicare Coverage

Upon discharge from hospice or revocation of hospice care, the beneficiary immediately resumes the Medicare coverage that had previously been waived by the hospice election. As such, hospices should record the beneficiary's discharge or revocation in the claims processing system promptly. Doing so protects the beneficiary from experiencing possible delays in accessing needed care.

An individual or representative may revoke the election of hospice care at any time in writing; however, a hospice cannot "revoke" a patient's election. To revoke the election of hospice care, the individual must file a document with the hospice that includes:

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- A signed statement that the individual revokes the election for Medicare coverage of hospice care for the remainder of that election period; and
- The effective date of that revocation. An individual may not designate an effective date earlier than the date that the revocation is made.

Note that a verbal revocation of benefits is NOT acceptable. The individual forfeits hospice coverage for any remaining days in that election period.

Upon revoking the election of Medicare coverage of hospice care for a particular election period, the individual is no longer covered under the Medicare hospice benefit, and resumes Medicare coverage of the benefits waived when hospice care was elected. An individual may, at any time, elect to receive hospice coverage for any other hospice election periods that he or she is eligible to receive.

Additional Information

The official instruction, CR9114 issued to your MAC regarding this change is available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R209BP.pdf> on the CMS website. The updated portions of the “Medicare Benefit Policy Manual” are attached to CR9114.

If you have any questions, please contact your MAC at their toll-free number. That number is available at <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Net/work-MLN/MLNMattersArticles/index.html> under - How Does It Work.

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