



SAFEGUARDS FOR MEDICARE PATIENTS IN HOSPICE CARE



The Hyperlink Table, at the end of this document, provides the complete URL for each hyperlink.

HOSPICE SERVICES

Hospice is an increasingly important benefit for the Medicare population. The goals of hospice care are to make terminally ill patients, with a life expectancy of 6 months or less, be as physically and emotionally comfortable as possible and to support their families and other caregivers throughout the process.

Medicare patients who elect hospice care are an especially vulnerable population. They have the right to be free from abuse, neglect, mistreatment, and misappropriation of patient property. When hospices cause harm or fail to prevent or mitigate harm caused by others, patients are deprived of these basic rights.

HOSPICE RESPONSIBILITIES RELATED TO PATIENT RIGHTS

When a patient elects hospice care, the hospice is responsible for providing all services related to the patient's terminal illness and related conditions, including ensuring the patient's rights are respected. When a hospice does not comply with Medicare requirements related to patient rights, there can be significant consequences. In these instances, abuse or neglect may occur, causing harm to the patient.

Examples of Abuse may include:

- **Abuse** means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish.
- **Verbal abuse** includes the use of oral, written, or gestured language that willfully includes disparaging and derogatory terms to patients or their families, or within their hearing distance, regardless of their age, ability to comprehend, or disability.
- **Mental abuse** includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation.
- **Sexual abuse** includes, but is not limited to, sexual harassment, sexual coercion, or sexual assault.
- **Physical abuse** includes, but is not limited to, hitting, slapping, pinching, and kicking. It also includes controlling behavior through corporal punishment.
- **Neglect** means failure to provide goods and services necessary to avoid physical harm or mental anguish.

Neglect in hospice may be difficult to identify and may result from inaction on the part of the hospice or its employees. Examples of neglect may include:

- The hospice not addressing the psychological, emotional, or spiritual distress of the patient and/or caregiver
- A failure of the hospice to address symptoms or conditions that exacerbate the distress of pain and discomfort
- The lack or diversion of comfort medication to address pain and symptom management
- A failure of the hospice to respond to requests for increased pain control or symptom management
- The hospice not responding to repeated calls from the patient and/or caregiver for pain or symptom management, including calls on weekends or after normal business hours
- Failure to deliver medication for pain or symptom management in a timely manner
- Not providing reasonable and appropriate wound management
- Lack of response from the hospice that results in the patient seeking emergency services to alleviate symptoms

MEDICARE HOSPICE REQUIREMENTS

To participate in Medicare, hospices must be certified as meeting certain Federal requirements called Conditions of Participation (CoPs), or standards for health and safety. Hospices are surveyed at least once every 3 years to verify their compliance with Federal requirements.

Hospices choose to have the survey conducted by State agencies or by a CMS-approved accrediting organization. Surveyors conduct home visits and interviews with patients and staff, as well as observe the facility's condition and operations. A primary role of the hospice surveyor is to assure the patient's rights are being met and that quality-of-care concerns are identified. Surveyors document their official findings in a survey report.

Complaints from patients, caregivers, health care providers, or others can result in additional inspections. CMS tracks complaints, categorizing them into different severity levels to determine which actions to take. For more severe complaints, CMS requires the State agency to conduct onsite surveys to investigate within certain timeframes.

REPORTING ABUSE AND NEGLECT

CMS requires hospices to immediately report all alleged violations involving mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source and misappropriation of patient property, by anyone furnishing services on behalf of the hospice, to the hospice administrator.

Additionally, the hospice must take action to:

- Immediately investigate all alleged violations involving anyone furnishing services on behalf of the hospice and immediately take action to prevent further potential violations. The hospice must conduct investigations and/or document all alleged violations in accordance with established procedures.
- Take appropriate corrective action in accordance with State law if the hospice administration or an outside body with jurisdiction such as the State survey agency or local law enforcement agency verifies the alleged violation.
- Report verified violations to State and local bodies with jurisdiction (including the State survey and certification agency) within 5 working days of becoming aware of the violation.

Failure of a hospice to act on these requirements does not prevent hospice employees from independently reporting suspected violations of patient rights to the [State Survey Agency](#) or other authorities. Anyone making a complaint to a State Survey Agency may request to remain an anonymous complainant. Each State Survey Agency maintains a toll-free complaint reporting hotline as well as other complaint reporting methods such as online, written, and fax submissions.

Many hospice care providers and their staff have mandatory reporting requirements in their State making them legally responsible to report suspicions of abuse to appropriate State authorities. Hospices and their staff that suspect or detect abuse, neglect, or other violations of a patient's rights, by people other than hospice employees should follow existing mandatory reporting requirements in their State. Programs such as Adult Protective Services (APS) can assist in reporting these instances. Furthermore, a patient and/or caregiver can contact the Beneficiary and Family Centered Care Quality Improvement Organization (BFCC-QIO) for quality of care issues.

Contact Information

Adult Protective Services (APS) and Beneficiary and Family Centered Care Quality Improvement Organization (BFCC-QIO) can be of assistance in reporting or addressing quality of care issues. For reporting numbers, contact Eldercare Locator at:

- 1-800-677-1116
- https://eldercare.acl.gov/Public/Resources/LearnMoreAbout/Elder_Rights.aspx#Abuse
- [Medicare.gov/claims-appeals/file-a-complaint-grievance/filing-a-complaint-about-your-quality-of-care](https://www.medicare.gov/claims-appeals/file-a-complaint-grievance/filing-a-complaint-about-your-quality-of-care)

Report issues related to actions or inaction on the part of a hospice agency that result in abuse or neglect directly to its [State survey and certification](#) agency for possible investigation.

RESOURCES

FOR MORE INFORMATION ABOUT...	RESOURCE
Safeguards Must Be Strengthened To Protect Medicare Hospice Patients From Harm, U.S. Department of Health & Human Services (HHS) Office of Inspector General (July 2019)	https://www.oig.hhs.gov/oei/reports/oei-02-17-00021.pdf?utm_source=summary-page&utm_medium=web&utm_campaign=OEI-02-17-00021-PDF
Hospice Deficiencies Pose Risks to Medicare Beneficiaries, U.S. Department of Health & Human Services (HHS) Office of Inspector General (July 2019)	https://oig.hhs.gov/oei/reports/oei-02-17-00020.pdf
Centers for Medicare & Medicaid Services	https://www.cms.gov
Eldercare Locator	https://eldercare.acl.gov/Public/Resources/LearnMoreAbout/Elder_Rights.aspx#Abuse
Contact Information For Filing a Complaint with the State Survey Agency	https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Complaintcontacts.pdf
State Operations Manual Appendix M – Guidance to Surveyors - Hospice	https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_m_hospice.pdf
CMS Hospice Handbook	https://www.medicare.gov/pubs/pdf/02154-Medicare-Hospice-Benefits.pdf
Filing a Complaint About Your Quality of Care	https://www.medicare.gov/claims-appeals/file-a-complaint-grievance/filing-a-complaint-about-your-quality-of-care

HYPERLINK TABLE

EMBEDDED HYPERLINK	COMPLETE URL
Eldercare Locator	https://eldercare.acl.gov/Public/Resources/LearnMoreAbout/Elder_Rights.aspx#Abuse
Filing a Complaint About Your Quality of Care	https://www.medicare.gov/claims-appeals/file-a-complaint-grievance/filing-a-complaint-about-your-quality-of-care
State survey and certification agency	https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Complaintcontacts.pdf

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