

March 24, 2020

Seema Verma
Administrator
U.S. Department of Health and Human Services
Centers for Medicare and Medicaid Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Administrator Verma:

On behalf of our over 6,000 members and partners including nonprofit organizations representing the entire field of aging services, 38 state associations, hundreds of businesses, consumer groups, foundations, and research centers, LeadingAge, ElevatingHOME, and the Visiting Nurse Associations of America (VNAA) ask that you consider additional actions to temporarily suspend certain requirements for health care providers, in this case focusing on home health and hospice service providers, to better respond to the novel coronavirus (COVID-19) outbreak.

The public health emergency declaration along with the President's national emergency declaration enabled your office to allow waivers consistent with section 1135 of the Social Security Act. We applaud the swift action that you have taken including the list of blanket waivers such as the relief for timeframes related to OASIS transmission and extending the auto-cancellation date of Requests for Anticipated Payment (RAPs). However, much more flexibility is required to allow home health agencies and hospice organizations to most effectively respond to this emergency and provide the best care possible to patients. We ask that you authorize blanket waivers that relate to the home health and hospice programs:

Home Health

- **Relaxing requirements for the comprehensive assessment** at 484.55 would remove a series of requirements around initial and comprehensive assessments. For example, it would allow home health agencies to perform initial assessments and determine patients' homebound status remotely or by record review, so that beneficiaries can obtain care while minimizing the risk to themselves or others. It also would grant greater flexibility with the timing of and information included in patient assessments.

- **Relaxing physician requirements related to ordering and certifying home health services** at 484.60 as well as developing the plan of care by non-physician practitioners to fulfill physician responsibilities in aspects of the conditions of participation. Relax written signature requirements and written documents when those can be accomplished electronically.
- **Relaxing the homebound requirement** for patients quarantined or isolating in their home for a minimum of 14 days, or who are otherwise high risk and unable to leave their home (for example for outpatient therapy) due to COVID-19. These patients should be presumed to be homebound and in need of skilled intermittent care.

Hospice

- **Relaxing requirements for the comprehensive assessment** at 418.54 would allow flexibility related to the required timeframes for the initial and comprehensive assessments as well as the plan of care.
- **Allowing contracting for core services** at 418.64 the federal hospice regulations require nursing, social work, spiritual care counseling, bereavement counseling, and dietary counseling to be provided by hospice employees. It is anticipated that hospice staffing will be reduced related to COVID-19 surge and associated quarantine. We are requesting that contracting for core staff positions be allowed, as these positions are critical to ensure continued hospice care for patients and their families
- **Permitting telephonic or video supervision of hospice aides** and LPNs/LVNs to meet the nurse aide supervision requirements and LPN/LVN supervision requirements where appropriate due to staffing shortages, and to minimize the risk of virus exposure during this pandemic at 418.76(h).
- **Allowing hospices to utilize pseudo patients in the competency testing** of hospice aides for those tasks that must be observed being performed on a patient at 418.76(c)(1). Allow qualified hospice aides to include those who are competency tested only in the areas/tasks for which they will be assigned. Significant staff shortages are anticipated in a workforce where some healthcare workers, especially aides, are already in short supply. Aides need to focus on the provision of care to patients.
- **Waiving the 5% level of activity requirement** at 418.78(e) requiring the use of volunteers for day-to-day administrative and/or direct patient care services in an amount that, at a minimum, equals 5 percent of the total patient care hours of all paid hospice employees and contract staff.

These requests represent policies that are necessary at this moment. They can allow important care delivered in homes and at the end of life to continue as uninterrupted as possible given the unique challenges brought on by COVID-19. As we learn more about the evolving pandemic and best ways to deliver care to patients, we anticipate the need for additional assistance from CMS and appreciate your agency's willingness to remain flexible as our home health agencies and hospice organizations continue to deliver care for patients during this national emergency.

Sincerely,

Katie Smith Sloan
President & CEO, LeadingAge
Acting Executive Director, ElevatingHOME & VNAA

cc: Jean Moody-Williams, Acting Director, Center for Clinical Standards and Quality, CMS
Carol Blackford, Deputy Director, Center for Clinical Standards and Quality, CMS
Demetrios Kouzoukas, Principal Deputy Administrator for Medicare and Director, CMS
Jason Bennett, Acting Director, Chronic Care Policy Unit, CMS
Hillary Loeffler, Director, Division of Home Health, Hospice and HCPCS, CMS