



March 20, 2023

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

We write today to urge CMS to clarify that after the expiration of the Public Health Emergency (PHE) on May 11th hospice providers may revert to pre-PHE use of communication options which supplement in person visits for patients receiving hospice routine home care.

For years before the COVID-19 PHE, hospice providers have used phone and video calls, as well as communication between a hospice nurse in the home consulting with a physician at a remote location, to supplement the high-touch in-person care which is a hallmark of high-quality hospice care. These virtual connections allow hospice providers to maintain constant contact with hospice patients and caregivers when needed, bring far-away loved ones in to end of life care decision making, and provide on-the-spot guidance for caretakers in the home. While some kinds of technology have been used to supplement in-person patient care for years, data on these visits has not been collected on the hospice claims form. Data measuring these visits should be included on the form for the sake of transparency, however, we do not advocate for the inclusion of virtual visits in quality metrics.

During the PHE, CMS affirmed that hospices could continue to use telehealth for these purposes, in the Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency Interim Final Rule with Comment (85 FR 19230), the regulations at 42 CFR 418.204 were amended to allow hospice providers to provide services to a Medicare patient receiving routine home care through telecommunications. Included in this interim change were details of how hospices were to document the use of these telecommunication services (e.g., they had to be included in the plan of care, tied to patient-specific needs, etc.) This reassured hospice providers who were facing the challenges of continuing to see patients and communicate with families while protecting their safety during the height of the COVID-19 pandemic and provided relief from the corresponding unprecedented workforce shortage. As such, hospices used telehealth to supplement in-person care and were able to provide high quality care to patients who were able to receive it through audiovisual technologies.

On February 24th, [CMS COVID-19 flexibility guidance for hospices](#) declared that “This interim regulatory change (providing hospice routine home care through telehealth) will expire at the end of the PHE.” Hospice providers now face confusion regarding what tools they’re allowed to use to supplement in-person care as they have for years. Some hospice stakeholders have received verbal confirmation from CMS staff that hospices may return to utilizing telecommunications as they did pre-pandemic; however, it would be most helpful if the CMS Hospice Fact Sheet was updated with this clarification. Hospices do not seek to count these light-touch contacts with patients and families as equivalent to in-person visits, and do not seek to count them as visits towards quality measures. Nonetheless, contacts with patients, families, referral sources and facilities for possible patient placement through phone and audio-visual contact have long been an important part of the wrap-around care provided by hospices across the country. It is our collective position that while these technologies should not supplant in person care, they provide an important resource to augment high quality care at the end of life.

We ask that CMS clarify the ways that hospices can continue to use communication options to supplement in-person care as they did prior to the PHE.

We are eager to work with you to unwind the PHE in an orderly manner which maintains the integrity of hospice care and ensures appropriate access to those who need it. Thank you for your consideration and continued collaboration.

Sincerely,

LeadingAge
National Association of Home Care and Hospice
National Hospice and Palliative Care Organization
National Partnership for Healthcare and Hospice Innovation