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**CHAPTER 24: HOSPICE**

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### **HOSPICE REVOCATION AND DISCHARGE**

When a beneficiary revokes or is discharged alive during an election period, the beneficiary loses any remaining days in the election period. The beneficiary may at any future time elect to receive hospice coverage for any other hospice periods for which he/she is eligible.

This requirement will affect both Medicaid-only and dual eligibles. The Centers for Medicare and Medicaid Services (CMS) requires the election and revocation/discharge to be simultaneous for both payer sources. If a beneficiary is eligible for Medicare as well as Medicaid (dual eligible) and revokes hospice care, the revocation forms must be submitted to the appropriate agency in compliance with the agency's requirements simultaneously.

The date of discharge (except discharge due to death) is not reimbursed by Medicaid.

#### **Revocations**

A beneficiary or his/her legal representative may revoke the election of hospice care at any time during an election period. This is a right that belongs solely and exclusively to the beneficiary or legal representative.

At no time is the hospice provider to demand a revocation. In addition, the hospice beneficiary or legal representative must not be asked to sign a blank form to be completed by the hospice provider prior to submission to the Prior Authorization Unit (PAU) through an electronic prior authorization (e-PA). In the event it is discovered during the verification process that a hospice provider encouraged revocation for the purpose of potentially avoiding hospice related charges, and the beneficiary or legal representative is in agreement, the revocation will not be honored.

#### **Required Statement of Revocation**

When a beneficiary revokes or is discharged alive during an election period, the beneficiary or legal representative must sign and date a statement acknowledging that he or she is aware of the revocation and state reason the revocation is chosen. This written statement must be in the hand writing of the beneficiary or legal representative and include the beneficiary's contact information.

The statement must be submitted to the hospice PAU for verification and follow up.

A signed statement must include the date the revocation is to be effective. A beneficiary or his/her legal representative cannot designate an effective date earlier than the date that the revocation is

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made. The date of signature and proper written statement must also be included. This revocation shall be received by the hospice PAU within five calendar days of revocation.

At no time will the effective date be earlier than the date the request is signed. Revocations that are back dated will be forwarded to the Medicaid Program Integrity Section for investigation for possible fraudulent activity. A verbal revocation of benefits is NOT acceptable.

The requirements for revocation and time limits also apply to beneficiaries who have both Medicare and Medicaid eligibility (dual eligible).

**Discharges**

A hospice provider must discharge a beneficiary from hospice care upon receipt of a revocation statement or upon discovery the beneficiary is not terminally ill.

**Reasons for Discharge**

Beneficiaries must be discharged **only** in the following circumstances:

- Change in terminal status;
- Beneficiary relocates from the hospice's geographically defined service area;
- Safety of the beneficiary or of the hospice staff is compromised. The hospice provider must make every effort to resolve these problems satisfactorily before discharge, and efforts must be documented in detail in the beneficiary's clinical record;
- Medicaid-only beneficiaries who enter a non-contracted nursing home or hospital and all options have been exhausted (a contract is not attainable, the beneficiary chooses not to transfer to a facility with which the hospice provider has a contract, or to a hospice provider with which the skilled nursing facility (SNF) has a contract). The hospice provider must notify the payer source to document that all options have been pursued and that the hospice provider is not discharging the beneficiary without due cause; and
- The hospice provider determines that the beneficiary's (or other persons in the beneficiary's home) behavior is disruptive, abusive or uncooperative to the extent

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that delivery of care to the beneficiary, or the ability of the hospice staff to operate effectively, is seriously impaired.

The hospice provider must do the following before it seeks to discharge a beneficiary for cause:

- Advise the beneficiary that a discharge for cause is being considered;
- Make a serious effort to resolve the problem(s) presented by the beneficiary's behavior or situation;
- Ascertain that the beneficiary's proposed discharge is not due to the beneficiary's use of necessary hospice services;
- Document the problem(s) and efforts made to resolve the problem(s) and enter this documentation into the beneficiary's clinical record; and
- Obtain a written physician's discharge order from the hospice medical director prior to discharging a beneficiary for any reason.

**NOTE:** If a beneficiary has an attending physician involved in his/her care, the physician should be consulted before discharge with his/her review and decision included in the discharge note. This order shall be submitted to the hospice PAU with the required Medicaid discharge forms within five calendar days.

### **Documentation of Discharge**

The hospice provider must clearly document why it was necessary to discharge the beneficiary.

Within five calendar days after discharge, the provider must submit the Notice of Termination with type bill 81B or 82B via the BHSF Form Hospice – Notice of Election through e-PA so the files may be updated in a timely manner.

### **Discharge/Revocation Due to Hospital Admit**

It is against Medicaid hospice policy to encourage beneficiaries to revoke hospice services when they have an inpatient admission, emergency room visit, ambulance transport or other outpatient services and re-elect hospice after services are delivered. These cases will be verified and closely monitored by the hospice PAU for referral to Program Integrity.

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**Service Availability upon Revocation or Discharge**

A beneficiary is no longer covered for hospice care under Medicaid upon discharge or revocation. All previously waived benefits will resume.

**NOTE:** This does not apply to waiver services received prior to hospice election.

**Notice of Transfer**

A Notice of Transfer is sent when the beneficiary is in the middle of an election period and wants to change hospice providers. A beneficiary may change hospice providers once each election period. The date of discharge from the current hospice provider must be only one day before the date of admission to the newly designated hospice provider.

Within five calendar days after discharge, the transferring hospice provider must submit the signed a type bill 81C via BHSF Form-Hospice through e-PA so the files may be updated in a timely manner. The new hospice provider receiving the beneficiary must also submit a completed notice of transfer (81C) to the hospice PAU within five days of receipt of transfer. Refer to Appendix A of this chapter.

**Late Notifications**

Failure to submit Notices of Revocation, Discharge or Transfer in a timely manner can result the inability for other providers to bill for services. Late submissions will be monitored by the department and PAU, and may be subject to monetary penalties.

Revocations received through e-PA that are more than five days old can be submitted with any proof of prior attempts to submit timely. For example, a fax confirmation sheet reflecting the appropriate discharge/revocation form with explanation (81B) is acceptable as proof as long as there is a successful fax transmission with a date on the confirmation sheet. A blank or failed fax confirmation sheet is not acceptable.