

plan of care, and contributing to patient and family counseling and education; and

(c) Licensed professionals must participate in the hospice's quality assessment and performance improvement program and hospice sponsored in-service training.

CORE SERVICES

§418.64 Condition of participation: Core services.

A hospice must routinely provide substantially all core services directly by hospice employees. These services must be provided in a manner consistent with acceptable standards of practice. These services include nursing services, medical social services, and counseling. The hospice may contract for physician services as specified in paragraph (a) of this section. A hospice may use contracted staff, if necessary, to supplement hospice employees in order to meet the needs of patients under extraordinary or other non-routine circumstances. A hospice may also enter into a written arrangement with another Medicare certified hospice program for the provision of core services to supplement hospice employee/staff to meet the needs of patients. Circumstances under which a hospice may enter into a written arrangement for the provision of core services include: Unanticipated periods of high patient loads, staffing shortages due to illness or other short-term temporary situations that interrupt patient care; and temporary travel of a patient outside of the hospice's service area.

(a) *Standard: Physician services.* The hospice medical director, physician employees, and contracted physician(s) of the hospice, in conjunction with the patient's attending physician, are responsible for the palliation and management of the terminal illness and conditions related to the terminal illness.

(1) All physician employees and those under contract, must function under the supervision of the hospice medical director.

(2) All physician employees and those under contract shall meet this requirement by either providing the services

directly or through coordinating patient care with the attending physician.

(3) If the attending physician is unavailable, the medical director, contracted physician, and/or hospice physician employee is responsible for meeting the medical needs of the patient.

(b) *Standard: Nursing services.* (1) The hospice must provide nursing care and services by or under the supervision of a registered nurse. Nursing services must ensure that the nursing needs of the patient are met as identified in the patient's initial assessment, comprehensive assessment, and updated assessments.

(2) If State law permits registered nurses to see, treat, and write orders for patients, then registered nurses may provide services to beneficiaries receiving hospice care.

(3) Highly specialized nursing services that are provided so infrequently that the provision of such services by direct hospice employees would be impracticable and prohibitively expensive, may be provided under contract.

(c) *Standard: Medical social services.* Medical social services must be provided by a qualified social worker, under the direction of a physician. Social work services must be based on the patient's psychosocial assessment and the patient's and family's needs and acceptance of these services.

(d) *Standard: Counseling services.* Counseling services must be available to the patient and family to assist the patient and family in minimizing the stress and problems that arise from the terminal illness, related conditions, and the dying process. Counseling services must include, but are not limited to, the following:

(1) *Bereavement counseling.* The hospice must:

(i) Have an organized program for the provision of bereavement services furnished under the supervision of a qualified professional with experience or education in grief or loss counseling.

(ii) Make bereavement services available to the family and other individuals in the bereavement plan of care up to 1 year following the death of the patient. Bereavement counseling also extends to residents of a SNF/NF or ICF/

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IID when appropriate and identified in the bereavement plan of care.

(iii) Ensure that bereavement services reflect the needs of the bereaved.

(iv) Develop a bereavement plan of care that notes the kind of bereavement services to be offered and the frequency of service delivery. A special coverage provision for bereavement counseling is specified in § 418.204(c).

(2) *Dietary counseling.* Dietary counseling, when identified in the plan of care, must be performed by a qualified individual, which include dietitians as well as nurses and other individuals who are able to address and assure that the dietary needs of the patient are met.

(3) *Spiritual counseling.* The hospice must:

(i) Provide an assessment of the patient's and family's spiritual needs.

(ii) Provide spiritual counseling to meet these needs in accordance with the patient's and family's acceptance of this service, and in a manner consistent with patient and family beliefs and desires.

(iii) Make all reasonable efforts to facilitate visits by local clergy, pastoral counselors, or other individuals who can support the patient's spiritual needs to the best of its ability.

(iv) Advise the patient and family of this service.

§ 418.66 Condition of participation: Nursing services—Waiver of requirement that substantially all nursing services be routinely provided directly by a hospice.

(a) CMS may waive the requirement in § 418.64(b) that a hospice provide nursing services directly, if the hospice is located in a non-urbanized area. The location of a hospice that operates in several areas is considered to be the location of its central office. The hospice must provide evidence to CMS that it has made a good faith effort to hire a sufficient number of nurses to provide services. CMS may waive the requirement that nursing services be furnished by employees based on the following criteria:

(1) The location of the hospice's central office is in a non-urbanized area as determined by the Bureau of the Census.

(2) There is evidence that a hospice was operational on or before January 1, 1983 including the following:

(i) Proof that the organization was established to provide hospice services on or before January 1, 1983.

(ii) Evidence that hospice-type services were furnished to patients on or before January 1, 1983.

(iii) Evidence that hospice care was a discrete activity rather than an aspect of another type of provider's patient care program on or before January 1, 1983.

(3) By virtue of the following evidence that a hospice made a good faith effort to hire nurses:

(i) Copies of advertisements in local newspapers that demonstrate recruitment efforts.

(ii) Job descriptions for nurse employees.

(iii) Evidence that salary and benefits are competitive for the area.

(iv) Evidence of any other recruiting activities (for example, recruiting efforts at health fairs and contacts with nurses at other providers in the area).

(b) Any waiver request is deemed to be granted unless it is denied within 60 days after it is received.

(c) Waivers will remain effective for 1 year at a time from the date of the request.

(d) If a hospice wishes to receive a 1-year extension, it must submit a request to CMS before the expiration of the waiver period, and certify that the conditions under which it originally requested the initial waiver have not changed since the initial waiver was granted.

NON-CORE SERVICES

§ 418.70 Condition of participation: Furnishing of non-core services.

A hospice must ensure that the services described in § 418.72 through § 418.78 are provided directly by the hospice or under arrangements made by the hospice as specified in § 418.100. These services must be provided in a manner consistent with current standards of practice.

§ 418.72 Condition of participation: Physical therapy, occupational therapy, and speech-language pathology.

Physical therapy services, occupational therapy services, and speech-language pathology services must be available, and when provided, offered in a manner consistent with accepted standards of practice.

§ 418.74 Waiver of requirement—Physical therapy, occupational therapy, speech-language pathology, and dietary counseling.

(a) A hospice located in a non-urbanized area may submit a written request for a waiver of the requirement for providing physical therapy, occupational therapy, speech-language pathology, and dietary counseling services. The hospice may seek a waiver of the requirement that it make physical therapy, occupational therapy, speech-language pathology, and dietary counseling services (as needed) available on a 24-hour basis. The hospice may also seek a waiver of the requirement that it provide dietary counseling directly. The hospice must provide evidence that it has made a good faith effort to meet the requirements for these services before it seeks a waiver. CMS may approve a waiver application on the basis of the following criteria:

(1) The hospice is located in a non-urbanized area as determined by the Bureau of the Census.

(2) The hospice provides evidence that it had made a good faith effort to make available physical therapy, occupational therapy, speech-language pathology, and dietary counseling services on a 24-hour basis and/or to hire a dietary counselor to furnish services directly. This evidence must include the following:

(i) Copies of advertisements in local newspapers that demonstrate recruitment efforts.

(ii) Physical therapy, occupational therapy, speech-language pathology, and dietary counselor job descriptions.

(iii) Evidence that salary and benefits are competitive for the area.

(iv) Evidence of any other recruiting activities (for example, recruiting efforts at health fairs and contact discussions with physical therapy, occupa-

tional therapy, speech-language pathology, and dietary counseling service providers in the area).

(b) Any waiver request is deemed to be granted unless it is denied within 60 days after it is received.

(c) An initial waiver will remain effective for 1 year at a time from the date of the request.

(d) If a hospice wishes to receive a 1-year extension, it must submit a request to CMS before the expiration of the waiver period and certify that conditions under which it originally requested the waiver have not changed since the initial waiver was granted.

§ 418.76 Condition of participation: Hospice aide and homemaker services.

All hospice aide services must be provided by individuals who meet the personnel requirements specified in paragraph (a) of this section. Homemaker services must be provided by individuals who meet the personnel requirements specified in paragraph (j) of this section.

(a) *Standard: Hospice aide qualifications.* (1) A qualified hospice aide is a person who has successfully completed one of the following:

(i) A training program and competency evaluation as specified in paragraphs (b) and (c) of this section respectively.

(ii) A competency evaluation program that meets the requirements of paragraph (c) of this section.

(iii) A nurse aide training and competency evaluation program approved by the State as meeting the requirements of § 483.151 through § 483.154 of this chapter, and is currently listed in good standing on the State nurse aide registry.

(iv) A State licensure program.

(2) A hospice aide is not considered to have completed a program, as specified in paragraph (a)(1) of this section, if, since the individual's most recent completion of the program(s), there has been a continuous period of 24 consecutive months during which none of the services furnished by the individual as described in § 409.40 of this chapter were for compensation. If there has been a 24-month lapse in furnishing services, the individual must complete another

program, as specified in paragraph (a)(1) of this section, before providing services.

(b) *Standard: Content and duration of hospice aide classroom and supervised practical training.* (1) Hospice aide training must include classroom and supervised practical training in a practicum laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered nurse, or a licensed practical nurse, who is under the supervision of a registered nurse. Classroom and supervised practical training combined must total at least 75 hours.

(2) A minimum of 16 hours of classroom training must precede a minimum of 16 hours of supervised practical training as part of the 75 hours.

(3) A hospice aide training program must address each of the following subject areas:

(i) Communication skills, including the ability to read, write, and verbally report clinical information to patients, care givers, and other hospice staff.

(ii) Observation, reporting, and documentation of patient status and the care or service furnished.

(iii) Reading and recording temperature, pulse, and respiration.

(iv) Basic infection control procedures.

(v) Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor.

(vi) Maintenance of a clean, safe, and healthy environment.

(vii) Recognizing emergencies and the knowledge of emergency procedures and their application.

(viii) The physical, emotional, and developmental needs of and ways to work with the populations served by the hospice, including the need for respect for the patient, his or her privacy, and his or her property.

(ix) Appropriate and safe techniques in performing personal hygiene and grooming tasks, including items on the following basic checklist:

(A) Bed bath.

(B) Sponge, tub, and shower bath.

(C) Hair shampoo (sink, tub, and bed).

(D) Nail and skin care.

(E) Oral hygiene.

(F) Toileting and elimination.

(x) Safe transfer techniques and ambulation.

(xi) Normal range of motion and positioning.

(xii) Adequate nutrition and fluid intake.

(xiii) Any other task that the hospice may choose to have an aide perform. The hospice is responsible for training hospice aides, as needed, for skills not covered in the basic checklist, as described in paragraph (b)(3)(ix) of this section.

(4) The hospice must maintain documentation that demonstrates that the requirements of this standard are met.

(c) *Standard: Competency evaluation.* An individual may furnish hospice aide services on behalf of a hospice only after that individual has successfully completed a competency evaluation program as described in this section.

(1) The competency evaluation must address each of the subjects listed in paragraph (b)(3) of this section. Subject areas specified under paragraphs (b)(3)(i), (iii), (ix), (x), and (xi) of this section must be evaluated by observing an aide's performance of the task with a patient or pseudo-patient. The remaining subject areas may be evaluated through written examination, oral examination, or after observation of a hospice aide with a patient or a pseudo-patient during a simulation.

(2) A hospice aide competency evaluation program may be offered by any organization, except as described in paragraph (f) of this section.

(3) The competency evaluation must be performed by a registered nurse in consultation with other skilled professionals, as appropriate.

(4) A hospice aide is not considered competent in any task for which he or she is evaluated as unsatisfactory. An aide must not perform that task without direct supervision by a registered nurse until after he or she has received training in the task for which he or she was evaluated as "unsatisfactory," and successfully completes a subsequent evaluation. A hospice aide is not considered to have successfully completed a competency evaluation if the aide has an "unsatisfactory" rating in more than one of the required areas.

(5) The hospice must maintain documentation that demonstrates the requirements of this standard are being met.

(d) *Standard: In-service training.* A hospice aide must receive at least 12 hours of in-service training during each 12-month period. In-service training may occur while an aide is furnishing care to a patient.

(1) In-service training may be offered by any organization, and must be supervised by a registered nurse.

(2) The hospice must maintain documentation that demonstrates the requirements of this standard are met.

(e) *Standard: Qualifications for instructors conducting classroom and supervised practical training.* Classroom and supervised practical training must be performed by a registered nurse who possesses a minimum of 2 years nursing experience, at least 1 year of which must be in home care, or by other individuals under the general supervision of a registered nurse.

(f) *Standard: Eligible competency evaluation organizations.* A hospice aide competency evaluation program as specified in paragraph (c) of this section may be offered by any organization except by a home health agency that, within the previous 2 years:

(1) Had been out of compliance with the requirements of §484.80 of this chapter.

(2) Permitted an individual that does not meet the definition of a “qualified home health aide” as specified in §484.80(a) of this chapter to furnish home health aide services (with the exception of licensed health professionals and volunteers).

(3) Had been subjected to an extended (or partial extended) survey as a result of having been found to have furnished substandard care (or for other reasons at the discretion of CMS or the State).

(4) Had been assessed a civil monetary penalty of \$5,000 or more as an intermediate sanction.

(5) Had been found by CMS to have compliance deficiencies that endangered the health and safety of the home health agency’s patients and had temporary management appointed to oversee the management of the home health agency.

(6) Had all or part of its Medicare payments suspended.

(7) Had been found by CMS or the State under any Federal or State law to have:

(i) Had its participation in the Medicare program terminated.

(ii) Been assessed a penalty of \$5,000 or more for deficiencies in Federal or State standards for home health agencies.

(iii) Been subjected to a suspension of Medicare payments to which it otherwise would have been entitled.

(iv) Operated under temporary management that was appointed by a governmental authority to oversee the operation of the home health agency and to ensure the health and safety of the home health agency’s patients.

(v) Been closed by CMS or the State, or had its patients transferred by the State.

(g) *Standard: Hospice aide assignments and duties.* (1) Hospice aides are assigned to a specific patient by a registered nurse that is a member of the interdisciplinary group. Written patient care instructions for a hospice aide must be prepared by a registered nurse who is responsible for the supervision of a hospice aide as specified under paragraph (h) of this section.

(2) A hospice aide provides services that are:

(i) Ordered by the interdisciplinary group.

(ii) Included in the plan of care.

(iii) Permitted to be performed under State law by such hospice aide.

(iv) Consistent with the hospice aide training.

(3) The duties of a hospice aide include the following:

(i) The provision of hands-on personal care.

(ii) The performance of simple procedures as an extension of therapy or nursing services.

(iii) Assistance in ambulation or exercises.

(iv) Assistance in administering medications that are ordinarily self-administered.

(4) Hospice aides must report changes in the patient’s medical, nursing, rehabilitative, and social needs to a registered nurse, as the changes relate to the plan of care and quality assessment

and improvement activities. Hospice aides must also complete appropriate records in compliance with the hospice's policies and procedures.

(h) *Standard: Supervision of hospice aides.* (1) A registered nurse must make an on-site visit to the patient's home:

(i) No less frequently than every 14 days to assess the quality of care and services provided by the hospice aide and to ensure that services ordered by the hospice interdisciplinary group meet the patient's needs. The hospice aide does not have to be present during this visit.

(ii) If an area of concern is noted by the supervising nurse, then the hospice must make an on-site visit to the location where the patient is receiving care in order to observe and assess the aide while he or she is performing care.

(iii) If an area of concern is verified by the hospice during the on-site visit, then the hospice must conduct, and the hospice aide must complete, a competency evaluation of the deficient skill and all related skill(s) in accordance with paragraph (c) of this section.

(2) A registered nurse must make an annual on-site visit to the location where a patient is receiving care in order to observe and assess each aide while he or she is performing care.

(3) The supervising nurse must assess an aide's ability to demonstrate initial and continued satisfactory performance in meeting outcome criteria that include, but is not limited to—

(i) Following the patient's plan of care for completion of tasks assigned to the hospice aide by the registered nurse.

(ii) Creating successful interpersonal relationships with the patient and family.

(iii) Demonstrating competency with assigned tasks.

(iv) Complying with infection control policies and procedures.

(v) Reporting changes in the patient's condition.

(i) *Standard: Individuals furnishing Medicaid personal care aide-only services under a Medicaid personal care benefit.* An individual may furnish personal care services, as defined in § 440.167 of this chapter, on behalf of a hospice agency.

(1) Before the individual may furnish personal care services, the individual must be found competent by the State (if regulated by the State) to furnish those services. The individual only needs to demonstrate competency in the services the individual is required to furnish.

(2) Services under the Medicaid personal care benefit may be used to the extent that the hospice would routinely use the services of a hospice patient's family in implementing a patient's plan of care.

(3) The hospice must coordinate its hospice aide and homemaker services with the Medicaid personal care benefit to ensure the patient receives the hospice aide and homemaker services he or she needs.

(j) *Standard: Homemaker qualifications.* A qualified homemaker is—

(1) An individual who meets the standards in § 418.202(g) and has successfully completed hospice orientation addressing the needs and concerns of patients and families coping with a terminal illness; or

(2) A hospice aide as described in § 418.76.

(k) *Standard: Homemaker supervision and duties.* (1) Homemaker services must be coordinated and supervised by a member of the interdisciplinary group.

(2) Instructions for homemaker duties must be prepared by a member of the interdisciplinary group.

(3) Homemakers must report all concerns about the patient or family to the member of the interdisciplinary group who is coordinating homemaker services.

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§ 418.78 Conditions of participation—Volunteers.

The hospice must use volunteers to the extent specified in paragraph (e) of this section. These volunteers must be used in defined roles and under the supervision of a designated hospice employee.

(a) *Standard: Training.* The hospice must maintain, document, and provide volunteer orientation and training that