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## § 418.1

AUTHORITY: 42 U.S.C. 1302 and 1395hh.

SOURCE: 48 FR 56026, Dec. 16, 1983, unless otherwise noted.

### Subpart A—General Provision and Definitions

#### § 418.1 Statutory basis.

This part implements section 1861(dd) of the Social Security Act (the Act). Section 1861(dd) of the Act specifies services covered as hospice care and the conditions that a hospice program must meet in order to participate in the Medicare program. Section 1861(dd) also specifies limitations on coverage of, and payment for, inpatient hospice care. The following sections of the Act are also pertinent:

(a) Sections 1812(a) (4) and (d) of the Act specify eligibility requirements for the individual and the benefit periods.

(b) Section 1813(a)(4) of the Act specifies coinsurance amounts.

(c) Sections 1814(a)(7) and 1814(i) of the Act contain conditions and limitations on coverage of, and payment for, hospice care.

(d) Sections 1862(a) (1), (6) and (9) of the Act establish limits on hospice coverage.

[48 FR 56026, Dec. 16, 1983, as amended at 57 FR 36017, Aug. 12, 1992; 74 FR 39413, Aug. 6, 2009]

#### § 418.2 Scope of part.

Subpart A of this part sets forth the statutory basis and scope and defines terms used in this part. Subpart B specifies the eligibility and election requirements and the benefit periods. Subparts C and D specify the conditions of participation for hospices. Subpart E is reserved for future use. Subparts F and G specify coverage and payment policy. Subpart H specifies coinsurance amounts applicable to hospice care.

[74 FR 39413, Aug. 6, 2009]

#### § 418.3 Definitions.

For purposes of this part—

*Attending physician* means a—

(1)(i) Doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he or she performs that function or action; or

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(ii) Nurse practitioner who meets the training, education, and experience requirements as described in § 410.75(b) of this chapter; or

(iii) Physician assistant who meets the requirements of § 410.74(c) of this chapter.

(2) Is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

*Bereavement counseling* means emotional, psychosocial, and spiritual support and services provided before and after the death of the patient to assist with issues related to grief, loss, and adjustment.

*BFCC-QIO* means Beneficiary and Family Centered Care Quality Improvement Organization.

*Cap period* means the twelve-month period ending September 30 used in the application of the cap on overall hospice reimbursement specified in § 418.309.

*Clinical note* means a notation of a contact with the patient and/or the family that is written and dated by any person providing services and that describes signs and symptoms, treatments and medications administered, including the patient's reaction and/or response, and any changes in physical, emotional, psychosocial or spiritual condition during a given period of time.

*Comprehensive assessment* means a thorough evaluation of the patient's physical, psychosocial, emotional and spiritual status related to the terminal illness and related conditions. This includes a thorough evaluation of the caregiver's and family's willingness and capability to care for the patient.

*Dietary counseling* means education and interventions provided to the patient and family regarding appropriate nutritional intake as the patient's condition progresses. Dietary counseling is provided by qualified individuals, which may include a registered nurse, dietitian or nutritionist, when identified in the patient's plan of care.

*Employee* means a person who:

(1) Works for the hospice and for whom the hospice is required to issue a W-2 form on his or her behalf; or

(2) If the hospice is a subdivision of an agency or organization, an employee of the agency or organization who is assigned to the hospice; or

(3) Is a volunteer under the jurisdiction of the hospice.

*Hospice* means a public agency or private organization or subdivision of either of these that is primarily engaged in providing hospice care as defined in this section.

*Hospice care* means a comprehensive set of services described in 1861(dd)(1) of the Act, identified and coordinated by an interdisciplinary group to provide for the physical, psychosocial, spiritual, and emotional needs of a terminally ill patient and/or family members, as delineated in a specific patient plan of care.

*Initial assessment* means an evaluation of the patient's physical, psychosocial and emotional status related to the terminal illness and related conditions to determine the patient's immediate care and support needs.

*Licensed professional* means a person licensed to provide patient care services by the State in which services are delivered.

*Multiple location* means a Medicare-approved location from which the hospice provides the same full range of hospice care and services that is required of the hospice issued the certification number. A multiple location must meet all of the conditions of participation applicable to hospices.

*Palliative care* means patient and family-centered care that optimizes quality of life by anticipating, preventing, and treating suffering. Palliative care throughout the continuum of illness involves addressing physical, intellectual, emotional, social, and spiritual needs and to facilitate patient autonomy, access to information, and choice.

*Physician* means an individual who meets the qualifications and conditions as defined in section 1861(r) of the Act and implemented at §410.20 of this chapter.

*Physician designee* means a doctor of medicine or osteopathy designated by the hospice who assumes the same responsibilities and obligations as the medical director when the medical director is not available.

*Pseudo-patient* means a person trained to participate in a role-play situation, or a computer-based mannequin device. A pseudo-patient must be capable of responding to and interacting with the hospice aide trainee, and must demonstrate the general characteristics of the primary patient population served by the hospice in key areas such as age, frailty, functional status, cognitive status and care goals.

*Representative* means an individual who has the authority under State law (whether by statute or pursuant to an appointment by the courts of the State) to authorize or terminate medical care or to elect or revoke the election of hospice care on behalf of a terminally ill patient who is mentally or physically incapacitated. This may include a legal guardian.

*Restraint* means—(1) Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely, not including devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests, or to protect the patient from falling out of bed, or to permit the patient to participate in activities without the risk of physical harm (this does not include a physical escort); or

(2) A drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition.

*Seclusion* means the involuntary confinement of a patient alone in a room or an area from which the patient is physically prevented from leaving.

*Simulation* means a training and assessment technique that mimics the reality of the homecare environment, including environmental distractions and constraints that evoke or replicate substantial aspects of the real world in a fully interactive fashion, in order to teach and assess proficiency in performing skills, and to promote decision making and critical thinking.