(5) If a hospice exceeds the number of inpatient care days described in paragraph (f)(4), the total payment for inpatient care is determined as follows:

(i) Calculate the ratio of the maximum number of allowable inpatient days to the actual number of inpatient care days furnished by the hospice to Medicare patients.

(ii) Multiply this ratio by the total reimbursement for inpatient care made by the Medicare Administrative Contractor.

(iii) Multiply the number of actual inpatient days in excess of the limitation by the routine home care rate.

(iv) Add the amounts calculated in paragraphs (f)(5)(ii) and (iii) of this section.

(g) Payment for routine home care, continuous home care, general inpatient care and inpatient respite care is made on the basis of the geographic location where the services are provided.

[48 FR 56026, Dec. 16, 1983, as amended at 56 FR 26919, June 12, 1991; 70 FR 45145, Aug. 4, 2005; 70 FR 70547, Nov. 22, 2005; 72 FR 50228, Aug. 31, 2007; 74 FR 39414, Aug. 6, 2009; 80 FR 47206, Aug. 6, 2015]

§ 418.304 Payment for physician, and nurse practitioner, and physician assistant services.

(a) The following services performed by hospice physicians and nurse practitioners are included in the rates described in § 418.302:

(1) General supervisory services of the medical director.

(2) Participation in the establishment of plans of care, supervision of care and services, periodic review and updating of plans of care, and establishment of governing policies by the physician member of the interdisciplinary group.

(b) For services not described in paragraph (a) of this section, a specified Medicare contractor pays the hospice an amount equivalent to 100 percent of the physician fee schedule for those physician services furnished by hospice employees or under arrangements with the hospice. Reimbursement for these physician services is included in the amount subject to the hospice payment limit described in § 418.309. Services furnished voluntarily by physicians are not reimbursable.

(c) Services of the patient's attending physician, if he or she is not an employee of the hospice or providing services under arrangements with the hospice, are not considered hospice services and are not included in the amount subject to the hospice payment limit described in § 418.309. These services are paid by the carrier under the procedures in subpart B, part 414 of this chapter.

(d) *Payment for hospice pre-election evaluation and counseling services.* The intermediary makes payment to the hospice for the services established in § 418.205. Payment for this service is set at an amount established under the physician fee schedule, for an office or other outpatient visit for evaluation and management associated with presenting problems of moderate severity and requiring medical decision-making of low complexity other than the portion of the amount attributable to the practice expense component. Payment for this pre-election service does not count towards the hospice cap amount.

(e)(1) Effective December 8, 2003, Medicare pays for attending physician services provided by nurse practitioners to Medicare beneficiaries who have elected the hospice benefit and who have selected a nurse practitioner as their attending physician. This applies to nurse practitioners without regard to whether they are hospice employees.

(2) Nurse practitioners may bill and receive payment for services only if the—

(i) Nurse practitioner is the beneficiary's attending physician as defined in § 418.3;

(ii) Services are medically reasonable and necessary;

(iii) Services are performed by a physician in the absence of the nurse practitioner; and

(iv) Services are not related to the certification of terminal illness specified in § 418.22.

(3) Payment for nurse practitioner services are made at 85 percent of the physician fee schedule amount.

(f)(1) Effective January 1, 2019, Medicare pays for attending physician services provided by physician assistants to

Medicare beneficiaries who have elected the hospice benefit and who have selected a physician assistant as their attending physician. This applies to physician assistants without regard to whether they are hospice employees.

(2) The employer or a contractor of a physician assistant must bill and receive payment for physician assistant services only if the—

(i) Physician assistant is the beneficiary's attending physician as defined in §418.3;

(ii) Services are medically reasonable and necessary;

(iii) Services are performed by a physician in the absence of the physician assistant and, the physician assistant services are furnished under the general supervision of a physician; and

(iv) Services are not related to the certification of terminal illness specified in §418.22.

(3) The payment amount for physician assistant services when serving as the attending physician for hospice patients is 85 percent of what a physician is paid under the Medicare physician fee schedule.

[48 FR 56026, Dec. 16, 1983, as amended at 69 FR 66426, Nov. 15, 2004; 70 FR 45145, Aug. 4, 2005; 70 FR 70547, Nov. 22, 2005; 83 FR 38655, Aug. 6, 2018]

§418.306 Annual update of the payment rates and adjustment for area wage differences.

(a) *Applicability*. CMS establishes payment rates for each of the categories of hospice care described in §418.302(b). The rates are established using the methodology described in section 1814(i)(1)(C) of the Act and in accordance with section 1814(i)(6)(D) of the Act.

(b) *Annual update of the payment rates*. The payment rates for routine home care and other services included in hospice care are the payment rates in effect under this paragraph during the previous fiscal year increased by the hospice payment update percentage increase (as defined in sections1814(i)(1)(C) of the Act), applicable to discharges occurring in the fiscal year.

(1) For fiscal year 2014 and subsequent fiscal years, in accordance with section 1814(i)(5)(A)(i) of the Act, in the case of a Medicare-certified hospice that submits hospice quality data, as specified by the Secretary, the payment rates are equal to the rates for the previous fiscal year increased by the applicable hospice payment update percentage increase.

(2) For fiscal years 2014 and through 2023, in accordance with section 1814(i)(5)(A)(i) of the Act, in the case of a Medicare-certified hospice that does not submit hospice quality data, as specified by the Secretary, the payment rates are equal to the rates for the previous fiscal year increased by the applicable hospice payment update percentage increase, minus 2 percentage points. Beginning with fiscal year 2024 and subsequent fiscal years, the reduction increases to 4 percentage points. Any reduction of the percentage change will apply only to the fiscal year involved and will not be taken into account in computing the payment amounts for a subsequent fiscal year.

(c) *Adjustment for wage differences*. (1) Each hospice's labor market is determined based on definitions of Metropolitan Statistical Areas (MSAs) issued by OMB. CMS will issue annually, in the FEDERAL REGISTER, a hospice wage index based on the most current available CMS hospital wage data, including changes to the definition of MSAs. The urban and rural area geographic classifications are defined in §412.64(b)(1)(ii)(A) through (C) of this chapter. The payment rates established by CMS are adjusted by the Medicare contractor to reflect local differences in wages according to the revised wage data.

(2) Beginning on October 1, 2022, CMS applies a cap on decreases to the hospice wage index such that the wage index applied to a geographic area is not less than 95 percent of the wage index applied to that geographic area in the prior fiscal year.