


**Tacking The New Requirements:  
NOEs, NOTRs & Designation of the  
Attending Physician**

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Subscriber Webinar  
September 2014



**HOSPICE FUNDAMENTALS**  
KNOWLEDGE • EXPERTISE • COMMON SENSE

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**This Round of Changes**

**Let's Get Straight On**

- History & intent
- Exactly what the new regulatory language says
- Important definitions
- Current flow of information between billing department and the MACs (Medicare Administrative Contractors)
- What we know today and what we don't have all the answers to or instructions on yet

**Let's Not**

- Make it more complicated than it needs to be
- Change practices that are perfectly allowable because CMS suggests that they might be problematic




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**Effective Dates**

Timely filing of NOEs	Applies to elections with an effective date on or after 10/1/2014
Timely filing of NOTRs	Applies to live discharges with an effective end date on or after 10/1/2014
Disallowed principal DX codes	Applies to claims with dates of service on or after 10/1/2014

Per e-mail from Wilfried Gehne  
Division of Institutional Claims Processing CMS  
9/3/2014




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### 42 CFR 418 Subparts

- A. General Provision and Definitions
- B. Eligibility, Election and Duration of Benefits
- C. Conditions of Participation – Patient Care
- D. Conditions of Participation - Organizational Environment
- E. Conditions of Participation – Removed and Reserved
- F. Covered Services
- G. Payment for Hospice Care
- H. Coinsurance

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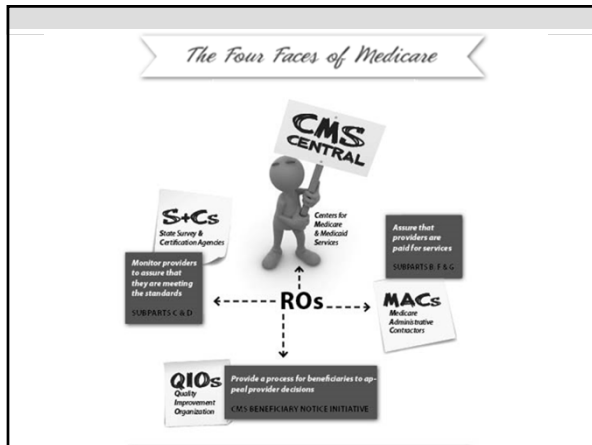
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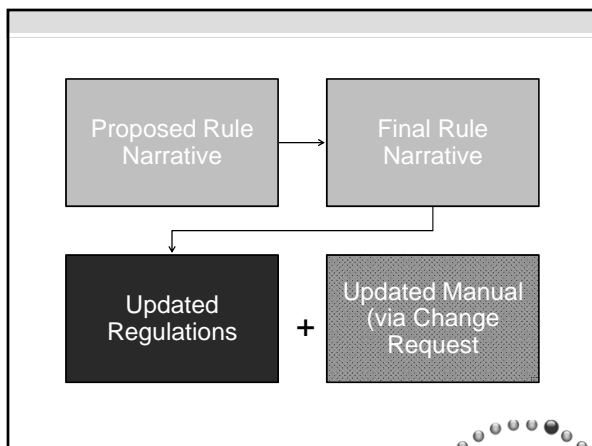
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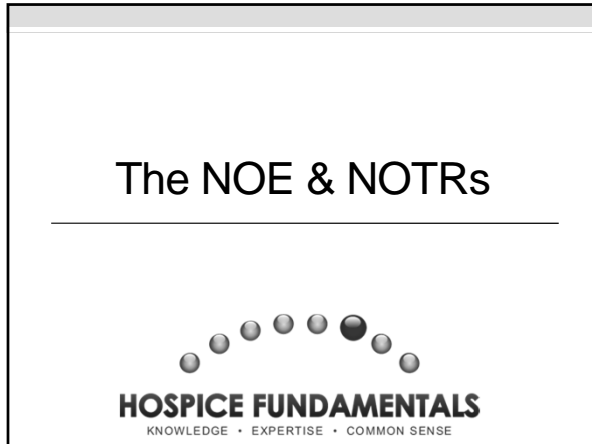
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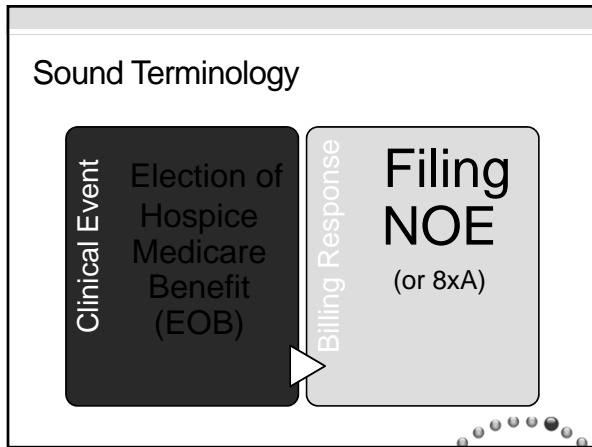
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What Problem Gave Rise to This?

- Hospice is a prospective pay system
- With an election the beneficiary waives right to coverage for services and good related to the terminal illness and related conditions unless provided by or through the hospice
- Must be a way to tell the Medicare claims system from paying claims from other providers for items that should be covered by the hospice
- Meet the Common Working File

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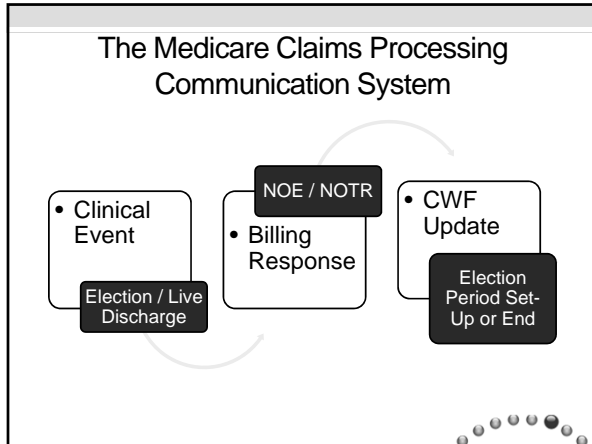
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### The Hospice Medicare Notices

A	Hospice benefit period initial election notice
B	Termination/revocation notice of previously posted hospice election
C	Change in provider
D	Void/cancel hospice election
C	Hospice Change of Ownership

- Used to communicate changes to the CWF
- Hospice billers have been using them since the inception of the Hospice Medicare Benefit

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### New NOE Filing Timeframe

Subpart B 418.24 Election of Hospice Care

(3) Consequences of failure to submit a timely notice of election. When a hospice does not file the required Notice of Election for its Medicare patients within 5 calendar days after the effective date of election, Medicare will not cover and pay for days of hospice care from the effective date of election to the date of filing of the notice of election. These days are a provider liability, and the provider may not bill the beneficiary for them.

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### The Exceptional Circumstances

At Subpart B 418.24 (4) Election of Hospice Care  
Events that would excuse untimely submission of an NOE.

- Fire, flood, earthquake, or other unusual event that inflicts extensive damage to the hospice's ability to operate.
- Event that produces a data filing problem due to a CMS or Medicare contractor systems issue that is beyond the control of the hospice.
- Newly Medicare-certified hospice that is notified of Medicare certification after their Medicare effective date, or who is waiting a user ID from its Medicare contractor.
- Other circumstances determined by (CGS or) CMS to be beyond the control of the hospice. Example: sequential billing requirements that require a second hospice to remove its timely filing NOE and claims so a previous provider can bill. [red text added on CGS website]

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### Don't Even Bother Asking...

The following **do not constitute exceptional circumstances:**

- Hospice personnel issues
- Internal IT system issues
- Lack of knowledge of the requirements
- Failure to have hospice back-up staff to file the NOE

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### Data Elements on NOE

Provider Identification	Hospice NPI
Type of Bill	Insured's Name
Statement Covers	HIC#
Period:	Principal DX Code
Patient Information	Attending Physician ID
Name	Other Physician ID
Address	Hospice Signature and
Birth Date	Date
Sex	
Admission Date	

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### Everyone's First Question

What about the problems caused by sequential billing?



A 3D rendered figure of a person sitting in a meditative pose (lotus position) with hands in a mudra. The figure is white and has a simple, rounded face. It is positioned to the right of the text. Below the figure is a small decorative arc of grey spheres.

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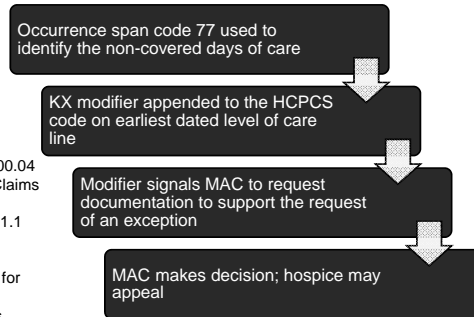
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### New Process: Requesting an Exception



Occurrence span code 77 used to identify the non-covered days of care

KX modifier appended to the HCPCS code on earliest dated level of care line

Modifier signals MAC to request documentation to support the request of an exception

MAC makes decision; hospice may appeal

See Pub 100.04 Medicare Claims Processing Manual 20.1.1 (Rev. 3032 Issued 8/22/2014) for complete instructions

A flowchart with four rectangular boxes connected by downward-pointing arrows. The first box contains the text 'Occurrence span code 77 used to identify the non-covered days of care'. The second box contains 'KX modifier appended to the HCPCS code on earliest dated level of care line'. The third box contains 'Modifier signals MAC to request documentation to support the request of an exception'. The fourth box contains 'MAC makes decision; hospice may appeal'. To the left of the flowchart is a reference to 'See Pub 100.04 Medicare Claims Processing Manual 20.1.1 (Rev. 3032 Issued 8/22/2014) for complete instructions'. A decorative arc of grey spheres is at the bottom right of the slide.

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### Everyone's Second Question

“Modifier signals MAC to request documentation to support the request of an exception”

- What type of documentation?
- Will some of it be generated automatically?

A 3D rendered figure sitting in a meditative pose with hands in a mudra, symbolizing contemplation or a common question." data-bbox="380 865 460 885"/>

A 3D rendered figure of a person sitting in a meditative pose (lotus position) with hands in a mudra. The figure is white and has a simple, rounded face. It is positioned to the right of the text. Below the figure is a small decorative arc of grey spheres.

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### Everyone's Third Question

"Timely-filed hospice NOEs shall be filed within 5 calendar days after the hospice admission date. A timely filed NOE is a NOE that is submitted to the Medicare contractor and accepted by the Medicare contractor within 5 calendar days after the hospice admission date." CR 8877 p4

What constitutes "accepted by the Medicare contractor?"

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### What Can You Be Doing Now?

- How many people know how the system works and can enter a NOE?
- How many people have passwords to access the DDE system? How often do they need to be used to keep them active? Do they know that?
- What is the time flow for NOEs today?
- Once the NOE is keyed in, who keeps an eye on it and how often?
- What quirks does your billing software have? Can it generate an NOTR / 8xB?

In order to make the necessary adjustments, you must know where you are today. And consider the use of the fire drill...

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### New NOTR Filing Requirement

Subpart B 418.28 Revoking the election of hospice care Election of Hospice Care

(d) When the hospice election is ended due to revocation, the hospice must file a notice of termination/revocation of election with its Medicare contractor within 5 calendar days after the effective date of the revocation, unless it has already filed a final claim for that beneficiary.

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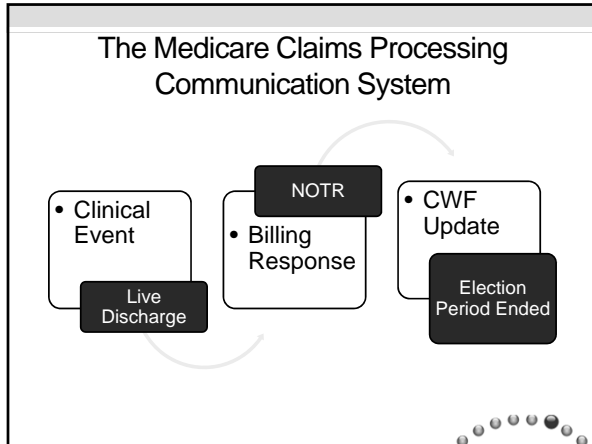
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### The Hospice Medicare Notices

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- No new form to create – it's a billing notice only (if revocation patient still needs to sign that)
- No need to file the NOTR (aka 8xB) if the final claim has been filed by time frame
- Start date on NOTR is date of the current benefit period; through date is day that discharge or revocation is effective
- Used for discharges and revocations\*

\*Palmetto has a different opinion

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## Designation of Attending Physicians

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**HOSPICE FUNDAMENTALS**  
KNOWLEDGE • EXPERTISE • COMMON SENSE

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### What Perceptions Did CMS Have?

- Beneficiaries not being allowed to exercise their right to choose an attending physician
- Beneficiaries being automatically assigned to a hospice-employed nurse practitioner when admitted to a hospice operated inpatient unit
- Beneficiaries being assigned to whatever clinician was available
- Hospices not obtaining Certification of Terminal Illness from attending physician
- Multiple physicians submitting claims with coding indicating that they were the beneficiary's attending physician
- Concerns related to wholesale changing to a hospice-employed NP as attending when beneficiaries going into a GIP setting

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### The Regulatory Language

Subpart B 418.24 Election of Hospice Care

(b) Content of election statement. The election statement must include the following:

- (1) Identification of the particular hospice **and of the attending physician** that will provide care to the individual. **The individual or representative must acknowledge that the identified attending physician was his or her choice.**

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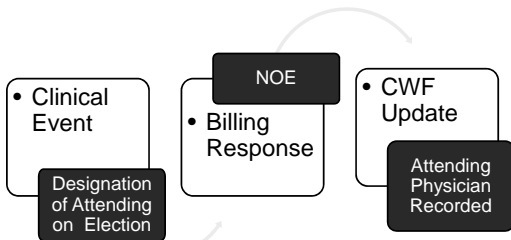
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### The Medicare Claims Processing Communication System



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### The Regulatory Language

#### Subpart B 418.24 Election of Hospice Care

(f) Changing the attending physician. To change the designated attending physician, the individual (or representative) must file a signed statement with the hospice that states that he or she is changing his or her attending physician.

(1) The statement must identify the new attending physician, and include the date the change is to be effective and the date signed by the individual (or representative).

(2) The individual (or representative) must acknowledge that the change in the attending physician is due to his or her choice.

(3) The effective date of the change in attending physician cannot be before the date the statement is signed.

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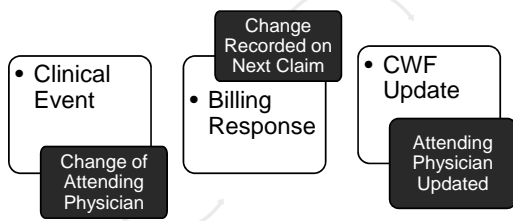
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### The Medicare Claims Processing Communication System



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### Part of the Problem

#### Hospice Definition

#### 418.3 Definitions

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

(ii) Nurse practitioner who meets the training, education, and experience requirements as described in §410.75 (b) 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.

#### Non-Hospice Definition

Practitioner responsible for a patient in an inpatient setting; may be a clinician assigned to provide care

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### CMS Expectations

The hospice CoPs at §418.64(a)(3) further require that if the attending physician is unavailable, the hospice medical director, hospice contracted physician, and/or hospice physician employee is responsible for meeting the medical needs of the patient. Therefore, the patient should receive all needed care, whether that care is provided by hospice doctors, hospice nurse practitioners (NPs), or by the designated attending physician.

FY 2015 Hospice Wage Index Final Rule, page 66

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### Three Specific Times to Consider

1. Time of election
2. During the course of care
3. Change in level of care to General Inpatient Care

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### Time of Election: Who's the Attending?

Identified potential attending says	Followed by
I'm ready and willing	Get CTI and move forward
"Keep me posted but I'd like hospice physicians to follow her"	Inform beneficiary / rep Offer hospice physician or NP
I do not wish to serve in this role	Ask if other choice Offer hospice physician or NP
"I want to see him first. Have him come in to the office next week."	Decision to make – does beneficiary need care now or can he wait until after visit?
Silence	Hospice physician or NP Other community doc as identified by the beneficiary
I'm a hospitalist	CMS says that they do not prohibit this choice but suggest that the hospice explain the limitations

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### What Happens When...

Attending identified on election statement but will not be serving in that capacity?

**Problem** Will not have a certification of Terminal Illness from that individual

**Action** Document situation very thoroughly  
No need to obtain a new election

Change in attending form needed?




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### During Course of Care

Beneficiary or representative completes signed statement if they wish to change attending

**Required Elements**

1. New attending
2. Acknowledgement that change in the attending physician is due to his/her choice
3. Date change is to be effective (cannot be before date statement is signed)
4. Date signed by individual




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### Transfer to the GIP Setting

Setting	Managing Clinician for the GIP Stay	Billing Notes
Hospital	Hospice Attending	Submits claims as usual
Hospital	Hospitalist	<ul style="list-style-type: none"> <li>• Physician looks to hospice for payment</li> <li>• Services included on hospice claim</li> <li>• Must be contract in place</li> </ul>
SNF	SNF Medical Director	
Hospice Unit	Hospice Physician	Included on hospice claim
	Hospice NP	No billing unless designated as hospice attending




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### Wrapping Up

- Will be more clarification coming on unanswered questions
- Billing scenarios will be addressed by MACs
- Work on understanding where you are right now so you can make necessary changes

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### To Contact Us

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Although every reasonable effort has been made to assure the accuracy of the information within these pages, the ultimate responsibility for the correct submission of claims and response to any remittance advice lies with the provider of services.



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