

Proposed Changes: §418.22 Certification of Terminal Illness

	#1	#2	#3	#4	#5
New Language	<p>(a)(3)</p> <p>(ii) Certifications may be completed no more than 15 calendar days prior to the effective date of election.</p> <p>(iii) Recertifications may be completed no more than 15 calendar days prior to the start of the subsequent benefit period.</p>	<p>(a)(4) Face-to-face encounter.</p> <p>As of January 1, 2011, a hospice physician or hospice nurse practitioner must visit each hospice patient, whose total stay across all hospices is anticipated to reach 180 days, no more than 15 calendar days prior to the 180-day recertification, and must continue to visit that patient no more than 15 calendar days prior to every recertification thereafter, to gather clinical findings to determine continued eligibility for hospice care.</p>	<p>(b)(3)(v)</p> <p>The narrative associated with the 180-day recertification and every subsequent recertification must include an explanation of why the clinical findings of the face-to-face encounter support a life expectancy of 6 months or less</p>	<p>(b)(4) The physician or nurse practitioner who performs the face-to-face encounter with the patient described in paragraph (a)(4) of this section, must attest in writing that he or she had a face-to-face encounter with the patient, including the date of that visit. The attestation of the nurse practitioner shall state that the clinical findings of that visit were provided to the certifying physician, for use in determining whether the patient continues to have a life expectancy of 6 months or less, should the illness run its normal course. The attestation, its accompanying signature, and the date signed, must be a separate and distinct section of, or an addendum to, the recertification form, and must be clearly titled.</p>	<p>(b)(5) All certifications and recertifications must be signed and dated by the physician(s), and must include the benefit period dates to which the certification or recertification applies</p>
Current Status	<p>Although the hospice chapter of the Medicare Benefit Policy Manual includes language allowing the initial certification to be completed up to 14 days prior to the election, the manual has always been silent on the allowable time frame for subsequent periods.</p>	<p>These three are totally new.</p>			<p>Although many hospices include the benefit period dates, it has not been a requirement.</p>
The Change	<p>Defines and standardizes the time frame for both the initial election and all subsequent benefit periods at 15 days in regulation.</p>	<p>Change #2 spells out that a face-to-face encounter must occur and defines the specific time frame. Change #3 states that the brief narrative on the certifications (from day 180 on) will incorporate the clinical findings from the FFE and change #3 requires that whichever practitioner completed the FFE sign an attestation that he/she indeed did have the FFE encounter.</p>			<p>Every cert and recert statement must include the benefit period dates to which it applied.</p> <p>Additionally, it must be signed & dated by the physician.</p>

§ 418.22 Certification of terminal illness.

(a) *Timing of certification*—(1) *General rule.* The hospice must obtain written certification of terminal illness for each of the periods listed in §418.21, even if a single election continues in effect for an unlimited number of periods, as provided in §418.24(c).

(2) *Basic requirement.* Except as provided in paragraph (a)(3) of this section, the hospice must obtain the written certification before it submits a claim for payment.

(3) *Exception(s).* (i) If the hospice cannot obtain the written certification within 2 calendar days, after a period begins, it must obtain an oral certification within 2 calendar days and the written certification before it submits a claim for payment.

(ii) Certifications may be completed no more than 15 calendar days prior to the effective date of election.

(iii) Recertifications may be completed no more than 15 calendar days prior to the start of the subsequent benefit period.

(4) *Face-to-face encounter.* As Of January 1, 2011, a hospice physician or hospice nurse practitioner must visit each hospice patient, whose total stay across all hospices is anticipated to reach 180 days, no more than 15 calendar days prior to the 180-day recertification, and must continue to visit that patient no more than 15 calendar days prior to every recertification thereafter, to gather clinical findings to determine continued eligibility for hospice care.

(b) *Content of certification.* Certification will be based on the physician's or medical director's clinical judgment regarding the normal course of the individual's illness. The certification must conform to the following requirements:

(1) The certification must specify that the individual's prognosis is for a life expectancy of 6 months or less if the terminal illness runs its normal course.

(2) Clinical information and other documentation that support the medical prognosis must accompany the certification and must be filed in the medical record with the written certification as set forth in paragraph (d)(2) of this section. Initially, the clinical information may be provided verbally, and must be documented in the medical record and included as part of the hospice's eligibility assessment.

(3) The physician must include a brief narrative explanation of the clinical findings that supports a life expectancy of 6 months or less as part of the certification and recertification forms, or as an addendum to the certification and recertification forms.

(i) If the narrative is part of the certification or recertification form, then the narrative must be located immediately prior to the physician's signature.

(ii) If the narrative exists as an addendum to the certification or recertification form, in addition to the physician's signature on the certification or recertification form, the physician must also sign immediately following the narrative in the addendum.

(iii) The narrative shall include a statement under the physician signature attesting that by signing, the physician confirms that he/she composed the narrative based on his/her review of the patient's medical record or, if applicable, his or her examination of the patient.

(iv) The narrative must reflect the patient's individual clinical circumstances and cannot contain check boxes or standard language used for all patients.

(v) The narrative associated with the 180-day recertification and every subsequent recertification must include an explanation of why the clinical findings of the face-to-face encounter support a life expectancy of 6 months or less.

(4) The physician or nurse practitioner who performs the face-to-face encounter with the patient described in paragraph (a)(4) of this section, must attest in writing that he or she had a face-to-face encounter with the patient, including the date of that visit. The attestation of the nurse practitioner shall state that the clinical findings of that visit were provided to the certifying physician, for use in determining whether the patient continues to have a life expectancy of 6 months or less, should the illness run its normal course. The attestation, its accompanying signature, and the date signed, must be a separate and distinct section of, or an addendum to, the recertification form, and must be clearly titled.

(5) All certifications and recertifications must be signed and dated by the physician(s), and must include the benefit period dates to which the certification or recertification applies.

(c) *Sources of certification.* (1) For the initial 90-day period, the hospice must obtain written certification statements (and oral certification statements if required under paragraph (a)(3) of this section) from—

(i) The medical director of the hospice or the physician member of the hospice interdisciplinary group; and

(ii) The individual's attending physician, if the individual has an attending physician. The attending physician must meet the definition of physician specified in §410.20 of this subchapter.

(2) For subsequent periods, the only requirement is certification by one of the physicians listed in paragraph (c)(1)(i) of this section.

(d) *Maintenance of records.* Hospice staff must—

(1) Make an appropriate entry in the patient's medical record as soon as they receive an oral certification; and

(2) File written certifications in the medical record.

[55 FR 50834, Dec. 11, 1990, as amended at 57 FR 36017, Aug. 12, 1992; 70 FR 45144, Aug. 4, 2005; 70 FR 70547, Nov. 22, 2005; 74 FR 39413, Aug. 6, 2009] Proposed face-to-face requirements per CMS-1510-P added in highlighted form