

### **The Least You Need to Know:**

*In response to the COVID-19 pandemic, guidance has been issued regarding safe hospice operations and waivers of certain requirements via a section 1135 Waiver.*

### **What is an 1135 Waiver?**

When the President declares a national emergency, the HHS Secretary is authorized to waive or modify certain Medicare requirements to ensure that services are available to meet the needs of patients and families.

#### **Reasons for waivers might include:**

- Conditions of participation or other certification requirements
- Preapproval requirements
- Stark self-referral sanctions

*Performance deadlines and timetables may be adjusted (**but not waived**)*

### *How to Proceed*

**Hospices must provide services in good faith.** They can be reimbursed and exempted from sanctions—*as long as there is no evidence of fraud and abuse.*

When faced with a regulation with which the hospice cannot reasonably and safely comply, hospices must inform CMS about which requirements they wish to waive under the 1135 waiver.

Hospices are encouraged to share examples with CMS by emailing a summary to [1135waiver@cms.hhs.gov](mailto:1135waiver@cms.hhs.gov)

***There is no guidance from CMS that you must wait for approval before proceeding.***

#### **The email should include:**

- Provider Name
- Full Address and Medicare provider number
- Contact person and contact information for follow-up questions
- Brief summary of why the waiver is needed;

*Include the condition of participation for which you need a waiver. Explain the reason for the waiver in your e mail, the change to process (like telephonic visits or missing deadlines), and use examples from your hospice.*

#### **Examples might include:**

- Staffing shortages due to illness
- Patients or facilities unwilling to allow anyone in
- Unavailability of patient representatives for signatures

***As of March 19, 2020, CMS has specifically stated that telephonic or virtual options are NOT permitted for face-to-face visits. Both NHPCO and AAHPM have requested that requirements for these visits should be relaxed or eliminated during this time of crisis.***

## Actions of a Prudent Hospice™

**ONE.** Check for the most recent guidance from CMS, the CDC and HHS regarding hospice and healthcare operations. This is a fluid time and changes are occurring rapidly.

**TWO.** Meet with hospice staff representatives and learn about barriers to providing services and items necessary for hospice care.

**THREE.** Establish systems to mitigate the negative impact on care.

**FOUR.** Follow the process to inform CMS of the waiver requirements needed.

**FIVE.** Keep employees informed about process and requirement changes.

**SIX.** Ensure the waivers meet the threshold of necessity, rather than convenience.

**SEVEN.** Document departure from requirements per waiver in each note; i.e. "telephonic visit with patient because he will not allow anyone to enter the home"

### *Hospice Care In Nursing Homes*

The CDC has offered guidance that hospice professionals should be permitted to come into nursing homes to provide care, as long as they meet CDC guidelines.

#### Links to More Information

**Information for Healthcare Providers:**

<https://www.cdc.gov/coronavirus/2019-nCoV/hcp/index.html>

**For more information on CMS**

**Guidance for Hospices go to:** <https://www.cms.gov/newsroom/press-releases/cms-issues-clear-actionable-guidance-providers-about-covid-19-virus>

**For members and non-members, NHPCO has established a central forum for guidance and updates at:**

[http://nhpco-netforum.informz.net/nhpco-netforum/pages/COVID19\\_OptIn](http://nhpco-netforum.informz.net/nhpco-netforum/pages/COVID19_OptIn)

