



Medicare Establishes Criteria to Allow Hospices to Accept Prescription Orders from Physician Assistants

Lanchi N. Bombalier and Ryan Kerr

Exactly one year after the Bipartisan Budget Act of 2018 redefined the statutory definition of “attending physician” to allow physician assistants (PAs) to serve as a hospice attending physician, the Centers for Medicare & Medicaid Services (CMS) has finally taken additional steps to allow PAs to effectively serve in this role, which requires considerable coordination of patient care with hospice providers. As of January 1, 2020, CMS amended the Medicare Conditions of Participation (CoPs) to allow hospices to accept medication orders from a PA serving as a hospice patient’s attending physician as long as certain requirements are met.¹

Prior to this recent change, even though Medicare regulations allowed patients the freedom of choice to elect a PA as his or her attending physician, the CoPs continued to limit hospice providers from accepting medication orders from PAs, by specifying that the hospice could accept orders only from licensed physicians and nurse practitioners. This addition of PAs to the list of authorized prescribers under the Medicare program brings PAs one step closer to being able to provide the scope of services necessary to function effectively as the hospice attending physician.

Under the amended CoPs, CMS has also established specific criteria to limit when hospices may accept medication orders from a PA, citing concerns about patient safety and program vulnerabilities. In order for a hospice to accept a prescription order from a PA, the following criteria must be met:

- (1) The PA must be acting within his or her scope of practice under state law and hospice policy;
- (2) The PA must be the patient’s attending physician; and
- (3) The PA must not be an employee of or under arrangement with the hospice.

Consistent with these changes, hospices wishing to accept medication orders from PAs should revisit their policies and procedures to ensure that such actions are allowed and otherwise consistent under the hospices’ own policies, as well as any related state laws. With regard to state law, it is notable that while CMS appears to be taking steps toward expanding PA authority to act as a hospice attending physician under federal law, many states have moved at a slower pace in modernizing state laws to conform with Medicare. Many states continue to have laws that pose limitations and constraints, not only related to the hospice’s acceptance of medication orders from a PA, but regarding whether PAs serving in the role of attending physician is consistent with the state’s overall regulatory scheme.

Notwithstanding the obstacles related to state laws, this most recent amendment eliminates another barrier that has prevented PAs from providing the full scope of services required of an attending physician to their patients.

¹ See 42 C.F.R. § 418.106(b)(1).

Authors and Contributors

Lanchi N. Bombalier

Partner, Atlanta Office
404.873.8520
lanchi.bombalier@agg.com

Ryan Kerr

Associate, Atlanta Office
404.873.8674
ryan.kerr@agg.com

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