



Incorporating Medicare Part D into the Hospice Admission and Medication Management Process

Compliance for Hospice Providers

Based on Revised CMS Guidance: July 18, 2014

Version 3

Hospice and Part D

CMS issued **revised guidance** on Part D and hospice on July 18, 2014. This revised guidance provided information about the medication management process for beneficiaries who elect the Medicare Hospice Benefit and also use Medicare Part D for medication coverage. Providers can view the CMS guidance by clicking on the document: "[Part D Payment for Drugs for Beneficiaries Enrolled in Medicare Hospice.](#)" CMS also posted a revised standardized form. NHPCO has converted the form into a "fillable" [Hospice Information for Medicare Part D](#) form.

This **revised** compliance guide provides hospice organizations with tools and suggested language that will assist in compliance with the Part D and hospice guidance and will continue to be updated as new information is available or as issues arise.

Additional information is available in NHPCO's [Revised Part D Guidance: NHPCO Regulatory Alert](#) posted in the NHPCO Regulatory & Compliance Center on July 24, 2014.

Federal regulations at 42 CFR § 418.202(f) stipulate that the Medicare Hospice Benefit **must** cover **ALL** medications and biologicals used primarily for the relief of pain and symptom control for **the terminal illness and related conditions** (the term "medications and biologicals" is defined in section 1861(t) of the Social Security Act). **This includes both prescription and over-the-counter drugs as defined in §1861(t) of the Act.**

The recently **revised** (July 18, 2014) CMS guidance on Part D and hospice will require hospice providers to submit a prior authorization (PA) to the Part D sponsor for medications if **unrelated** to the terminal illness or related conditions. However, CMS states that they "**expect that Medicare hospice providers will continue to provide all of the medications that are reasonable and necessary for the palliation and management of a beneficiary's terminal illness and related conditions. We expect that this will routinely include [but is not limited to] the drugs in the four categories highlighted by the OIG:**

- analgesics
- anti-nauseants (antiemetics)
- laxatives
- anti-anxiety drugs (anxiolytics)

CMS has “strongly encouraged” Part D sponsors to place beneficiary-level PA requirements on only these four categories of prescription drugs since “these drugs are the least likely to be subject to disputes concerning payment responsibility and any barriers to beneficiary access to prescription drugs will be minimized.”

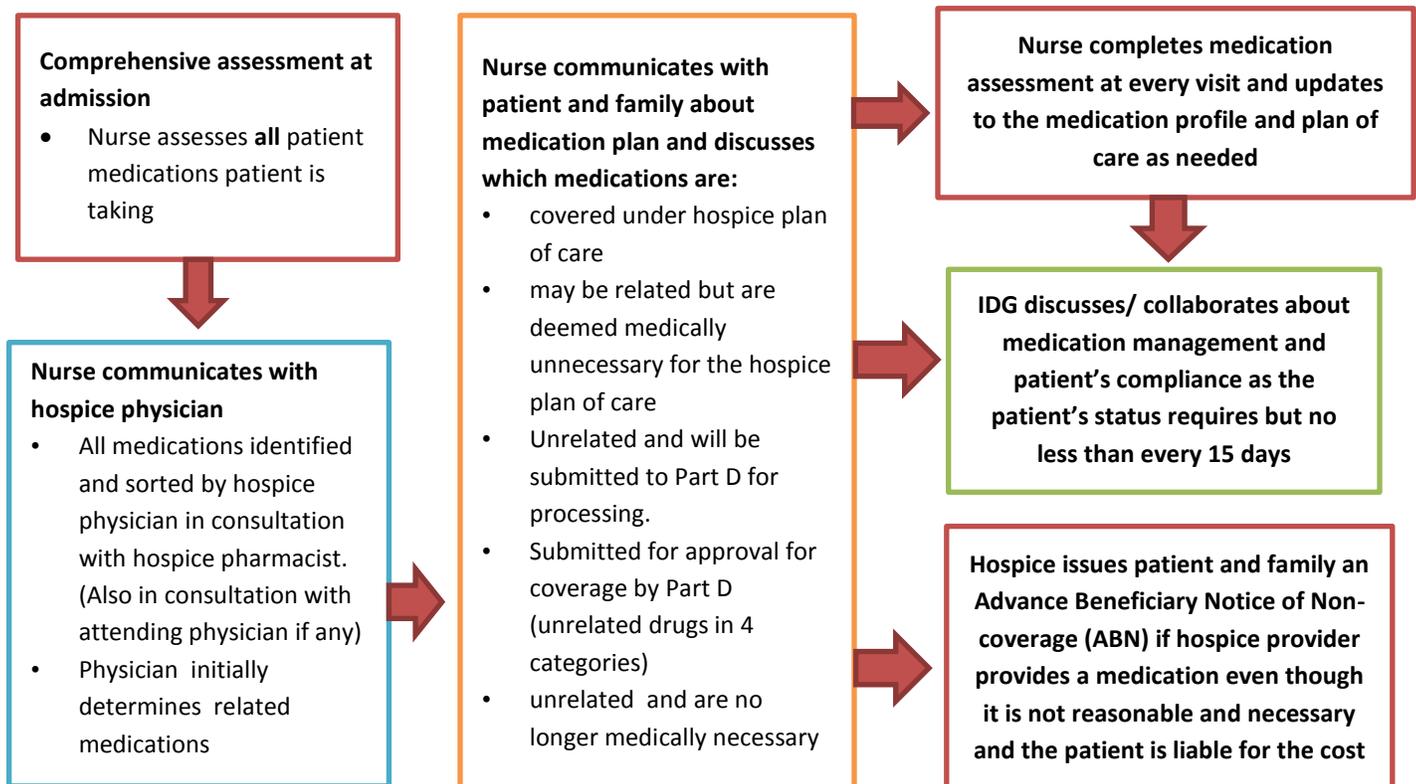
Effective date: The effective date of the revised guidance is **July 18, 2014**, but CMS will allow Part D sponsors and hospices time to implement the changes to effectuate the guidance. Therefore, although CMS strongly encourages sponsors to implement the guidance as soon as possible, their expectation is that all Part D sponsors will have implemented it by **October 1, 2014**.

Hospice Medication Assessment and Management Process

Hospice providers need to adjust their admission and medication management processes and be very thoughtful about determining medication relatedness and medical necessity to the terminal illness and related conditions. Providers need to ask the question, “Does the diagnosis or condition contribute to the 6 month or less prognosis of the patient?” Depending on the prognosis at the time of admission, hospice coverage of medications will differ and it may be more difficult to separate medication into related and unrelated categories as the patient’s prognosis shortens.

Providers also need to initiate conversations with patients and families about the discontinuation of medications (related and unrelated) that are deemed futile or no longer medically necessary by the hospice physician.

Medication Assessment and Patient Communication Process:



Comprehensive assessment:

The comprehensive assessment includes a drug profile with all of the patient's prescription and over-the-counter (OTC) drugs, herbal remedies, and other alternative treatments that could affect drug therapy. The hospice plan of care is based on the needs identified in the initial, comprehensive, and updated plan of care assessments. Hospices are required to have appropriate medication documentation in the clinical record upon completion of these assessments. **Ensure that the documentation of medications and a clinical basis for whether the medication is unrelated to the terminal illness or related conditions can be found in the patient's medical record and can be shared with the Part D sponsor or other audit agencies.**

Medication identification:

Assessment of medications occurs at admission and is a continuous process. The determination of which drugs are **related to the terminal illness and related conditions that contribute to the terminal prognosis**, is a hospice physician decision, in consultation with the hospice pharmacist. The judgment regarding the discontinuation of medications is also a hospice physician in collaboration with the patient's attending physician (if any).

- Related to terminal illness or related conditions
 - Hospice pays
- Related to terminal illness but no longer medically necessary
 - Patient pays or discontinues
- Unrelated to terminal illness
 - Part D processes for payment, but no hospice PA process
- Unrelated to terminal illness, in 4 categories of drugs, and documented by hospice physician as unrelated
 - Prior authorization submitted to Part D by hospice provider – either on admission or after in response to Part D claim rejection and contact from pharmacy
 - Part D **may** pay
- Unrelated but no longer medically necessary
 - Not covered by hospice
 - Not covered by Part D
 - Could be paid for by the patient or discontinues

Resource: Article: [10 Drugs to Reconsider When a Patient Enrolls in Hospice](#) (NHPCO NewsLine, May 2014)

Drugs never covered by Part D:

There are drugs that are statutorily excluded from the Part D benefit:

- Drugs for the symptomatic relief of cough and cold
- Most prescription vitamins
- Nonprescription (i.e., OTC) drugs.

These drugs will never be covered by the Part D sponsor and will either be covered by the hospice or a patient expense, depending on the hospice's policies.

Patient communication:

Explain medication coverage process to patients, representatives and families...

- Verbally review with the patient, representative and family that Medicare requires the hospice provider to make a list of all medications the patient is taking when the patient elects the Medicare Hospice Benefit. Document the review in the medical record.
- Explain to patients and families that there may be a medication that is not deemed related to the terminal or related diagnoses but is still essential for ongoing care of the patient. If any of these drugs are **analgesics, antiemetics, laxatives, or antianxiety** drugs, the hospice will need to submit proactive information to the patient's Part D sponsor of the patient's enrollment in hospice and a request for the sponsor to remove the "reject code" from the patient's file, so that the Part D sponsor can process the request for Part D payment.
- Review that they will not be able to pick up medications in these drug categories from their pharmacy and have Part D pay for those medications unless the hospice provider validates the medication with the Part D sponsor first.
- Describe the possibility that there could be medications that are the patient's financial liability if the patient wants to continue taking medications that have been determined by the hospice to be medically unnecessary and are not included in the hospice plan of care.

Additional resources available for hospice providers include:

- Sample medication coverage language for patient admission packet
- Letter to the patient
- Part D patient explanation: Suggested language for hospice staff to use with patients.

Advance Beneficiary Notice of Non-coverage (ABN):

A patient or their representative must be notified when medications have been determined to no longer be medically necessary and therefore will not be covered by the hospice provider (Part A) or Part D.

- **Issue the ABN:**
 - If the hospice provider provides the medication even though it is not reasonable and necessary, the hospice **must issue** an ABN **in order to charge the patient or their representative for the medication.**
- **Do not issue the ABN:**
 - If a hospice provider does not provide the medication, an Advance Beneficiary Notice of Non-coverage or ABN) **does not need to be issued** to the patient/ representative.

Hospice Communication with Part D Sponsor for Every Patient that has Part D Drug Coverage

Hospice election:

- Hospice reports patient election of hospice to Part D sponsor.
- Use standardized form to notify Part D sponsor; check the box on the first page indicating the hospice election.
 - The form should then be faxed or mailed to the Part D sponsor, depending on the Part D sponsor's direction and guidance to the hospice provider.
- This communication can be used by the Part D sponsor to override the beneficiary-level hospice PA at point-of-sale (POS).
- This is completed for every patient that has Part D drug coverage.

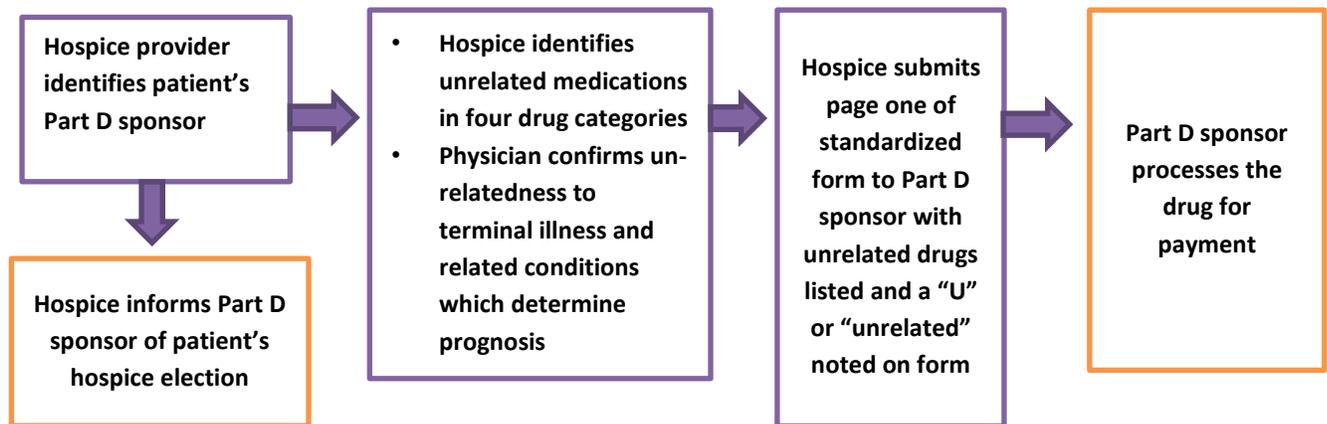
Revocation or discharge:

- Report revocations and discharges to Part D sponsor as soon they occur.
- Use standardized form to notify Part D sponsor; check box on the first page indicating the hospice revocation or discharge.
 - The form should then be faxed or mailed to the Part D sponsor, depending on the Part D sponsor's direction and guidance to the hospice provider.
- Other documentation can be sent to Part D sponsor as evidence of revocation or discharge and include:
 - Revocation -
 - Patient's signed statement of revocation
 - Submission of a final claim indicating the revocation of the hospice benefit
 - Discharge for no longer terminally ill –
 - Patient signed Notice of Medicare Non-Coverage (NOMNC)
 - The hospice provider's discharge summary
 - Discharge for leaving the service area, entering a non-contracted facility or for cause
 - The hospice provider's discharge summary

Communication to the Part D sponsor about patient election is not a coverage determination or PA request. The information provided by the hospice can be used by the Part D sponsor to override the beneficiary-level hospice PA at point-of-sale (POS).

Prior authorization (PA) process for drugs in the four categories for new admissions:

Only drugs in the four categories that are **CLEARLY AND UNEQUIVOCALLY UNRELATED** to the terminal illness and related conditions require a PA process.



Identifying patient Part D sponsor:

- 1. Patient's Part D card:** During the admission process, ask the patient if they have Medicare Part D coverage for medications, and ask to see patient's Part D card or information which lists the name of the Part D sponsor. Gather the name of the plan, any patient-specific information, and the customer service phone number on the card.
- 2. Pharmacy:** Hospice providers can also proactively identify a beneficiary's Part D sponsor through the patient's usual pharmacy provider. A pharmacy can identify a beneficiary's Part D sponsor by submitting a standard electronic eligibility (E1) query to the CMS Transaction Facilitator. The query response identifies the plan sponsor and provides the sponsor's online billing information, as well as the pharmacy help desk telephone number. In most circumstances, the hospice provider can initiate communication or submit a prior authorization (PA) through the Part D sponsor sponsor's 24-hour pharmacy help desk.

Standardized Form:

- Use revised form:** CMS recognized that a standardized form was developed by the National Council of Prescription Drug Programs (NCPDP) Hospice Task Group, where NHPCO was an active participant. The form is now widely accepted by the industry. CMS offered several edits to the May 2014 form and released the revised version with the revised guidance on July 18, 2014. A fillable form is now available on the NHPCO website. **Providers should use the revised form in future communications with Part D sponsors (PDF).**
- Form availability:** The form is available on the NHPCO website at nhpco.org/regulatory or on the CMS website (PDF). Note that the form on the NHPCO website has been designed as a fillable form (PDF). The downloaded form from the CMS website is not fillable.

- **Use page 1 of form:** CMS strongly recommended that the first page of the form be used by hospices in communication with Part D sponsors until a standardized form has been through the CMS official approval process. **Only drugs in the four categories that are unrelated to the terminal illness and related conditions are reported on page 1.**
- **Form use confirms unrelated drug:** CMS states that “listing the drug here in effect constitutes a statement by the hospice provider or the prescriber that the drug is unrelated.”
- **Marking form for unrelated:** The space for a rationale is provided on the form. However, only a “U” or “unrelated” needs to be included on the form.
- **Second page of form:** Hospice providers are not required to complete the second page of the form, but completing it will assist Part D sponsors in their care coordination activities.
- **Part D sponsor form acceptance:** CMS states that “as long as the necessary statement that the drug is unrelated is provided, the sponsors should accept it in any format.”
- **Reporting election or termination:** The hospice can also use the first page of the form to report only a beneficiary’s hospice election or termination, even if the patient is not taking any drugs requiring PA. In these cases, the hospice could use the patient information section to report the appropriate date and check the box to indicate the form is being used solely to update a hospice election (admission) or termination (discharge or revocation). This will ensure more timely notification of Part D sponsors that a beneficiary has elected hospice, or that they have revoked or been discharged from the benefit and should resume access to their full Part D benefit.

Hospice clinical record documentation:

- The hospice physician continues to have the responsibility for determining whether a drug is related or unrelated to the terminal illness and related conditions.
- **The medical judgment of the physician as to why a medication is unrelated must be documented in the clinical record.**
- The hospice team should also discuss the drugs that may no longer be medically necessary and may need to be discontinued.
- The hospice will have new data to collect during the admission process, and increased documentation requirements for the determination of relatedness and the completion of the prior authorization forms.

Hospice provider first fill of unrelated medications:

- CMS encourages hospice providers to provide a compassionate first fill for any medication needed by a beneficiary who is experiencing difficulty in accessing the drug at point of sale.

- If the drug provided is **unrelated** to the terminal illness and related conditions, the hospice provider should contact the Part D sponsor to negotiate recovery of the hospice's payment to the pharmacy.
- **No ABN** is issued to the patient in this scenario and it **would not** be considered inducement on the hospice provider's part to pay for a one-time supply of unrelated medication to the patient.

Medicare Advantage/Part C - Resumption of Coverage under MA Plans

For hospice patients in a Medicare Advantage (MA) plan, all services continue to process through fee-for-service Medicare through the end of the month in which the Medicare hospice benefit terminated and MA coverage resumes at the beginning of the following month.

Point of Sale Pharmacy

- There are times when a patient or their family bring documentation to the pharmacy counter (point of sale – POS) showing a hospice termination, or evidence that a particular drug is unrelated to the terminal illness or related condition. Often this documentation will provide information that allows immediate access to a prescribed drug.
- CMS states: "Part D sponsors should communicate with their network pharmacies to encourage the pharmacies to assist plan members by faxing the documentation to the sponsor and note that the sponsor will accept this information so the beneficiary-level hospice PA edit can be overridden at POS".
- Pharmacies may also explain to patients and families why a claim has been rejected because of the patient's hospice election and provide additional guidance to contact the Part D sponsor or the hospice for more detailed information.

Beneficiary Appeal Rights

- If the beneficiary desires to continue taking drugs that are not covered by Medicare Part A (hospice) or Part D, then the hospice must fully inform the beneficiary of his or her financial liability.
- Beneficiaries who disagree with such determinations may continue raising these issues through the Medicare fee-for-service appeals process if the determination relates to Part A or B coverage and the Part D appeals process if the determination relates to Part D coverage.
- CMS states: "Beneficiaries may also submit quality of care complaints to a Quality Improvement Organization (QIO) when the beneficiary prefers a non-formulary drug because, for example, it's believed to be more efficacious than the formulary drug prescribed by the hospice".
- Whether or not the hospice furnishes the drug, if the beneficiary feels that the Medicare hospice should cover the cost of the drug, the beneficiary may submit a claim for the medication directly to Medicare on Form [CMS-1490S](#). If the claim is denied, the beneficiary may file an

appeal of that determination under the appeals process set forth in part 405, subpart I. [NOTE: Documentation of the drug's relatedness to the terminal prognosis, as well as discussions with the patient and family about the reasons for the hospice determination that they will not cover the drug will be crucially important in this appeals process.]

Retroactive Recoupment

- Part D payment after hospice election:
 - If a Part D sponsor has paid for drugs in the four classes after the patient elects hospice but before a hospice election is known, the Part D sponsor should review claims after the hospice election and determine retrospective payment responsibility. CMS expects the hospice provider or unaffiliated prescriber to provide necessary written or verbal statements to the Part D sponsor that “the drug is either unrelated to the terminal illness or related conditions, or is a beneficiary liability.”
- Hospice payment responsibility:
 - If the drug is determined to be a hospice responsibility, the Part D sponsor and the hospice should negotiate repayment.
- Beneficiary responsibility:
 - If the drug is determined to be a beneficiary responsibility, the Part D sponsor should send a recovery notice to the beneficiary.
- Part D payment process:
 - Part D sponsors should develop processes to handle resolution of payment directly with hospice providers without involving the pharmacy in the retail setting. If a network pharmacy is also the hospice pharmacy, as in long-term care pharmacies, reversing the claim and rebilling may be appropriate.

Updates to PECOS

- Hospice updates:
 - It is more important than ever that hospices update and keep current any information about the hospice in the PECOS system. This system will be used by the Part D sponsor for communication with the hospice about Part D PA issues and beneficiary concerns.
- Link to PECOS: [The system is accessible via the CMS Website](#)

Use of Hospice Formularies

All medications prescribed for a patient/ representative must meet the needs of the patient. If the medications on the formulary are not providing the relief needed, then the hospice provider must provide an alternative(s) in order to relieve pain and symptoms, even if it means providing a

medication(s) that is not on their formulary. CMS expects hospice providers to provide non-formulary medications when they are necessary to meet the patient’s needs and desired outcomes.

Exception: If a patient/ representative request a **specific medication** which is not on the hospice provider formulary, the hospice provider does not have to provide that specific medication if the hospice physician determines that a medication on its formulary is clinically equivalent and would work as well. If a patient or representative insists on the specific medication that the hospice provider does not believe is reasonable and necessary, and the hospice provider offers an alternative medication that could meet the patient’s needs which is refused by the patient/representative, the patient could still receive the specific medication, but the hospice provider would not be liable for its cost. The specific medication cannot be billed to Part D and would be the patient/ representative’s financial liability. This must be communicated to the patient and his or her representative.

Questions about Hospice and Part D sponsors

Hospice providers who experience challenges with the prior authorization process should relay those experiences to NHPCO’s Regulatory team by emailing us at regulatory@nhpco.org. Please write, “Part D Communication Issues” in the subject line of the email.

References

CMS, Part D Payment for Drugs for Beneficiaries Enrolled in Medicare Hospice, July 18, 2014. Retrieved from: <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/Downloads/2014-PartD-Hospice-Guidance-Revised-Memo.pdf>

NHPCO, “Hospice Information for Medicare Part D,” (fillable standardized form)
<http://www.nhpco.org/sites/default/files/public/regulatory/HospicePA-andPlan-of-Care-file.pdf>

[*10 Drugs to Reconsider When a Patient Enrolls in Hospice*](#) (NHPCO NewsLine, May 2014)

Title 42: Public Health, Part 418-Hospice Care, Subpart A—General Provision and Definitions, §418.1 Statutory basis. . Retrieved from: <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5;node=42%3A3.0.1.1.5#42:3.0.1.1.5.1>