



Discharge Planning for Better Health Care **Advocacy Tips for Assisting Medicare Patients in Hospice Discharge**

Discharge Planning for HOSPICE CARE PATIENTS

Introduction

General guidelines and cautions

The following information for Medicare beneficiaries and their advocates is useful in challenging a discharge or reduction in services in hospital, skilled nursing, home health, and hospice care settings:

- Read carefully all documents that purport to explain Medicare rights. If unable to do so, have family members, friends, or other representatives read such document(s).
- Question treating physicians, nurses, social workers, home health care providers, and other care providers about necessary services as the beneficiary's condition improves, remains the same, or requires more services. If the beneficiary has opinions and concerns about care, voice them and participate fully in all care decisions.
- Become familiar with Medicare guidelines about eligibility for hospital and home and community-based care, including nursing facility services and home health services available under the Medicare and Medicaid programs. It is also important to explore other options for services that may be available through other state-based sources of coverage for home and community-based services (HCBS).
- Identify and become familiar with available health care services such as visiting nursing services, home health agencies, nursing homes, respite care, friendly visiting services, and religious and civic groups that provide services. An important source of information about services is the Elder Care Locator 1-800-677-1116. In addition, contact the Medicare program's information line B 1-800-MEDICARE (1-800-633-4227) (TTY: 1-877-486-2048 for the hearing impaired).
- Become familiar with discharge planning and its interplay with "transitions," an

activity that includes the preparing for and moving from one care setting to another. See, “Breathing Life Into Discharge Planning,” by Alfred J. Chiplin, Jr., http://www.medicareadvocacy.org/WAUpdate_BreathingLifeIntoDischargePlanning06.22.04.PDF

- Use physicians and suppliers who are Medicare-participating providers and, as such, have agreed to accept the Medicare reasonable charge amount, less the 20% beneficiary co-payment, as payment in full for Medicare-covered physician and supplier services (*See, 42 U.S.C §§1395u(b)(3);1395n; 42 C.F.R. §§ 410.152(amounts of payment); 424.55(b)(payment to suppliers); 414.48 (limiting charge for non-participating suppliers); see also, 400.402(definitions specific to Medicare, including payment on an assignment related basis).*
- Beware of using physicians who have opted out of Medicare and the impact of using such physicians and consequent impact on access to Medicare coverage for the services. *See, 42 C.F.R. §§405.400 et seq.*
- Pay attention to access to coverage concerns that may arise from recently instituted Medicare rules that exclude and limit payment for hospital-acquired conditions (HACs) and incidents that should never happen in hospitals (never events).
- Contact your local Medicare office or the Social Security office for a list of Medicare participating providers and suppliers in your area.

Discharge planning in the Hospice Setting

Discharge planning

- Medicare regulations require that hospice programs perform discharge planning.
- The hospice must have in place a discharge planning process that takes into account the prospect that a patient’s condition might stabilize or otherwise change such that the patient cannot continue to be certified as terminally ill.
- The discharge planning process must include planning for any necessary family counseling, patient education, or other services before the patient is discharged because he or she is no longer terminally ill.

42 C.F.R. §418.26(d).

Appeal rights in discharge situations

- Section 332 of the Benefits Improvement and Protection of Act of 2000 (BIPA), Pub. L. No. 106-554 (Dec. 21, 2000), amends §1814(a) of the Social Security Act, 42 U.S.C. §1395f(a) to provide special appeal rights for beneficiaries who are at risk of discharge or termination of services from a skilled nursing facility, home health agency, or hospice. 42 C.F.R. §405.1200 et seq. The regulations require that for any termination of service, the provider of the service must deliver valid written notice to the beneficiary of the provider's decision to terminate services. In the case of hospice patients, this notice triggers the Medicare beneficiary's right to request an expedited determination. 42 C.F.R. §405.1202.
- The regulations permit hospice programs to discharge patients under only three circumstances:
 - The patient moves out of the hospice's service area or transfers to another hospice;
 - The hospice determines that the patient is no longer terminally ill; or
 - The hospice determines, under a policy set by the hospice for the purpose of addressing discharge for cause...that the patient's (or other persons in the patient's home) behavior is disruptive, abusive, or uncooperative to the extent that delivery of care to the patient or the ability of the hospice to operate effectively is seriously impaired.
42 C.F.R. §418.26(a).
- There are no specific appeal rights when a discharge is for cause, although the beneficiary must be notified by the hospice when discharge for cause is being considered." 42 C.F.R. §418.26(a). The hospice is, however, to:
 - Advise the patient that a discharge for cause is considered;
 - Make a serious effort to resolve the problem(s) presented by the patient's behavior or situation;
 - Ascertain that the patient's proposed discharge is not due to the patient's use of necessary hospice services; and
 - Document the problem(s) and efforts made to resolve the problem(s) and enter this documentation into its medical record.
42 C.F.R. §418.26(a).

Discharge planning rights

Medicare-participating hospice programs must provide discharge planning, including having a:

- Discharge planning process that takes into account the prospect that a patient's condition might stabilize or otherwise change such that the patient cannot continue to be certified as terminally ill.
- Discharge planning process must include planning for any necessary family counseling, patient education, or other services before the patient is discharge because he or she is no longer terminally ill. 42CFR.

42 C.F.R. §418.26(d).

October 2008