



News Flash – The Medicare Learning Network® (MLN) has released MLN Matters® Article MM7133 to inform providers that the Centers for Medicare & Medicaid Services (CMS) will cover counseling services to prevent tobacco use for outpatient and hospitalized beneficiaries. Effective for claims with dates of service on and after August 25, 2010, CMS will cover tobacco cessation counseling for outpatient and hospitalized Medicare beneficiaries 1) who use tobacco, regardless of whether they have signs or symptoms of tobacco-related disease; 2) who are competent and alert at the time that counseling is provided; and 3) whose counseling is furnished by a qualified physician or other Medicare-recognized practitioner. This article is based on Change Request (CR) 7133 and is available at <http://www.cms.gov/MLN MattersArticles/downloads/MM7133.pdf> on the CMS website.

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Home Health Face-to-Face Encounter - A New Home Health Certification Requirement

Provider Types Affected

This article is for physicians certifying Medicare patients' need/eligibility for home health benefits, home health agencies (HHAs), and beneficiaries.

What You Need to Know

As a condition for payment, the Affordable Care Act mandates that prior to certifying a patient's eligibility for the home health benefit, the certifying physician must document that he or she, or an allowed non-physician practitioner (NPP) has had a face-to-face encounter with the patient. Documentation regarding these encounters must be present on certifications for patients with starts of care on and after January 1, 2011. See the remainder of this article for details.

Background

Since the inception of the benefit, the Social Security Act has required physicians to order and certify the need for Medicare home health services. This new

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mandate assures that the physician's order is based on current knowledge of the patient's condition.

As a condition for payment, the Affordable Care Act mandates that prior to certifying a patient's eligibility for the home health benefit, the certifying physician must document that he or she, or an allowed NPP has had a face-to-face encounter with the patient.

The Affordable Care Act describes NPPs who may perform this face-to-face patient encounter as a nurse practitioner or clinical nurse specialist (as those terms are defined in section 1861(aa)(5) of the Social Security Act), who is working in collaboration with the physician in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg) of the Social Security Act, as authorized by State law), or a physician assistant (as defined in section 1861(aa)(5) of the Social Security Act), under the supervision of the physician.

Home Health Prospective Payment System (HHPPS) Final Rule Implementation Provisions

The Centers for Medicare & Medicaid Services (CMS) implemented this provision of the Affordable Care Act via the HHPPS Calendar Year (CY) 2011 rulemaking. In that rule, CMS finalized the following:

- Documentation regarding these face-to-face encounters must be present on certifications for patients with starts of care on and after January 1, 2011.
- As part of the certification form itself, or as an addendum to it, the physician must document when the physician or allowed NPP saw the patient, and document how the patient's clinical condition as seen during that encounter supports the patient's homebound status and need for skilled services.
- The face-to-face encounter must occur within the 90 days prior to the start of home health care, or within the 30 days after the start of care.
- In situations when a physician orders home health care for the patient based on a new condition that was not evident during a visit within the 90 days prior to start of care, the certifying physician or NPP must see the patient within 30 days after admission. Specifically:
 - If the certifying physician or NPP had not seen the patient in the 90 days prior to the start of care, a visit within 30 days of start of care would be required.
 - If a patient saw the certifying physician or NPP within the 90 days prior to start of care, another encounter would be needed if the

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patient's condition had changed to the extent that accepted standards of practice would preclude the physician from ordering services without the physician or an NPP first examining the patient.

The Affordable Care Act and the final rule include several features to accommodate physician practice:

- In addition to allowing NPPs to conduct the face-to-face encounter, Medicare allows a physician who attended to the patient in an acute or post-acute setting, but does not follow patient in the community (such as a hospitalist) to certify the need for home health care based on their contact with the patient, and establish and sign the plan of care. The acute/post-acute physician would then "hand off" the patient's care to his or her community-based physician.
- Medicare will also allow physicians who attended to the patient in an acute or post-acute setting to certify the need for home health care based on their contact with the patient, initiate the orders for home health services, and "hand off" the patient to his or her community-based physician to review and sign off on the plan of care.
- The law allows the face-to-face encounter to occur via telehealth, in rural areas, in an approved originating site.

Plan of Care (POC) and Certification Clarifications

Long-standing regulations have described the distinct content requirements for the POC and certification. The Affordable Care Act requires the face-to-face encounter and corresponding documentation as a certification requirement. Providers have the flexibility to implement the content requirements for both the POC and certification in a manner that best makes sense for them.

Prior to CY 2011, CMS manual guidance required the same physician to sign the certification and the POC. Beginning in CY 2011, CMS will allow additional flexibility associated with the POC when a patient is admitted to home health from an acute or post-acute setting. For such patients, CMS will allow physicians who attend to the patient in acute and post-acute settings to certify the need for home health care based on their face to face contact with the patient (which includes documentation of the face-to-face encounter), initiate the orders (POC) for home health services, and "hand off" the patient to his or her community-based physician to review and sign off on the plan of care. As described in the final HHPPS regulation, CMS continues to expect that, in most cases, the same physician will

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certify and establish and sign the POC. But the flexibility exists for HH post-acute patients if needed.

Certain non-physician practitioners can play an important role in the face to face encounter. For example, an allowed non-physician practitioner who attends to a patient in an acute setting or emergency room can collaborate with and inform the community certifying physician regarding his/her contact with the patient. The community physician could document the encounter and certify based on this information.

Additional Information

Medicare home health plays a vital role in allowing patients to receive care at home as an alternative to extended hospital or nursing home care. Questions and answers regarding this requirement will be available via Medicare's home health agency website, <http://www.cms.gov/center/hha.asp> on the CMS website.

News Flash - It's a Busy Time of Year. Make each office visit an opportunity to talk with your patients about the importance of getting the seasonal flu vaccination and a one-time pneumococcal vaccination. Remember, Medicare pays for these vaccinations for all beneficiaries with no co-pay or deductible. The seasonal flu and invasive pneumococcal disease kill thousands of people in the United States each year, most of them 65 years of age or older. The Centers for Disease Control and Prevention (CDC) also recommends that health care workers and caregivers be vaccinated against the seasonal flu. Protect your patients. Protect your family. Protect yourself. **Get Your Flu Vaccine - Not the Flu.** Remember – Influenza vaccine plus its administration are covered Part B benefits. Note that influenza vaccine is NOT a Part D covered drug. For information about Medicare's coverage of the influenza vaccine and its administration, as well as related educational resources for health care professionals and their staff, please visit http://www.cms.gov/MLNProducts/Downloads/Flu_Products.pdf and <http://www.cms.gov/AdultImmunizations> on the Centers for Medicare & Medicaid Services (CMS) website.

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