

CMS-1539-P-4 Medicare Program; Hospice Wage Index for Fiscal Year 2008**Submitter :** Mrs. Laura Blum**Date & Time:** 06/20/2007**Organization :** Joint Commission**Category :** Health Care Industry**Issue Areas/Comments****Care Giver Breakdown and
General Inpatient Care**

Care Giver Breakdown and General Inpatient Care

**Certification of Terminal
Illness**

Certification of Terminal Illness

Date: July 2, 2007

Centers for Medicare & Medicaid Services

Department of Health and Human Services

Attention: CMS-1539-P

Mail Stop C4-26-05

7500 Security Boulevard

Baltimore, MD 21244-1850

RE: Comments on the proposed rule Medicare Program; Hospice Wage Index for Fiscal Year 2008

File Code: CMS- 1539-P

The Joint Commission appreciates the opportunity to comment on the proposed rule that will set forth the hospice wage index for FY 2008. CMS has deemed the Joint Commission accreditation process to be equivalent to the survey for the purpose of participation in the Medicare program for hospice organizations. As the nation's oldest and largest standard-setting and accrediting body in health care, the Joint Commission is in a unique position to offer suggestions to CMS on hospice-related issues and policies.

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If you have any question or require additional information regarding the comments provided below, please contact Trisha Kurtz, Director of Federal Relations at pkurtz@jointcommission.org or Laura Blum, Associate Director of Federal Relations, at lblum@jointcommission.org. Both Trisha and Laura can be reached by telephone at 202.783.6655.

Definitions (?418.3): Nurse Practitioner

The Medicare Modernization Act added nurse practitioner employed by a hospice program to the definition of an attending physician for beneficiaries who have elected the hospice benefit. The Joint Commission supports the inclusion of all providers whose scope of practice allows them to fulfill this role. Since the definition of attending physician is being revised to include the qualifications in ?410.75 labeled nurse practitioners services, to avoid confusion, CMS should consider clarifying the definition using the term attending physician or attending nurse practitioner.

Educational Requirements for Nurse Practitioners

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**Payment for Hospice Care
 Based on Location**

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Date: July 2, 2007

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CMS-1539-P-5 Medicare Program; Hospice Wage Index for Fiscal Year 2008

Submitter : Ms. Linda Leone

Date & Time: 06/21/2007

Organization : Illinois HomeCare Council

Category : Health Care Provider/Association

Issue Areas/Comments

GENERAL

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See Attachment

CMS-1539-P-5-Attach-1.DOC



June 21, 2007

Centers for Medicaid & Medicare Services
Department of Health and Human Services
Attention: CMS-1539-P
P.O. Box 8012
Baltimore, MD 21244-1850

Dear Sir or Madame:

Thank you for this opportunity to comment on the proposed regulation published in the Federal Register on May 1, 2007 entitled "Medicare Program; Hospice Wage Index for Fiscal Year, 2008; Proposed Rule" (Vol. 72, No. 83, Page 24116). The Illinois HomeCare Council (IHCC) is a trade association representing approximately 200 home care provider and supplier organizations in Illinois. These comments were developed by IHCC's Regulatory and Reimbursement Committee.

Site of Service

IHCC members understand CMS' proposal that hospice payments for all four levels of care be adjusted by the wage index that applies to the site of service rather than to the site of the hospice's administrative office. IHCC accepts the rationale presented by CMS in the preamble to the proposed regulation, and notes that this is the manner in which payments are adjusted for home health services as well. It seems reasonable that the approaches should be consistent.

However, IHCC also notes that this change will significantly increase the complexity of filing claims as hospices will now have to note not only the HCPCS code for the setting in which the patient is receiving services, but also the CBSA for the geographic location of that setting. These changes will increase costs to hospices.

Certification

IHCC members comply with the programmatic requirement that certification of terminal status must be made through consultation between the hospice medical

director and the patient's attending physician, often using information gathered by the admission nurse during the initial hospice visit. IHCC's only concern about the language that appears in the preamble on this topic is about the administrative instructions that will be issued.

CMS acknowledges in the preamble that the regulations do not require direct consultation between the hospice medical director and the attending physician, and also acknowledge that the admitting nurse may play a central role in the process by obtaining clinical information supporting the terminal diagnosis. IHCC members urge CMS not to take a narrow view of what type of documentation must be available in the clinical record to demonstrate the role of the physicians.

In some instances the concurrence of the hospice medical director and the attending physician is tacit—the patient's clinical condition may be so obviously appropriate for hospice care that no direct or indirect communication between the physicians is required. In other instances, the coordination may have occurred while the patient was in an institutional setting and may not appear first-hand in the clinical record—rather it may be referred to without being directly documented.

IHCC believes that CMS should take a broad and comprehensive view of the type of documentation that is acceptable in demonstrating that the determination of terminal status has been made by the physicians involved and that signing the certification of terminal status confirms the outcome of that process. IHCC further believes that this view should be communicated to Medicare reviewers, be they state agency surveyors or medical reviewers working for the fiscal intermediary.

Please do not hesitate to contact IHCC's Regulatory Consultant, Rebecca Friedman Zuber if you have any questions about these comments. She can be reached at (312) 787-8017 or at rfzuber@gmail.com.

Sincerely,

Linda Leone
President