
Program Memorandum Intermediaries/Carriers

Department of Health & Human
Services (DHHS)
Centers for Medicare &
Medicaid Services (CMS)

Transmittal AB-02-009

Date: JANUARY 31, 2002

This Program Memorandum re-issues AB-01-09, Change Request 1502 dated January 24, 2001. The only change is the discard date; all other material remains the same.

CHANGE REQUEST 1502

SUBJECT: Clarification of Physician Certification Requirements for Medicare Hospice

Section 1814(a)(7) of the Social Security Act (the Act) contains the requirements for Medicare hospice that a physician certify in writing, at the beginning of a benefit period, that a beneficiary is terminally ill. Section 1861(dd)(3)(A) explains that an individual is considered to be “terminally ill” if the individual has a medical prognosis that the individual’s life expectancy is 6 months or less. Federal Regulations at 42 CFR 418.3 further clarify that an individual is considered to be terminally ill if they have a medical prognosis of a life expectancy of 6 months or less *if the illness runs its normal course*.

Subtitle C, §322, of the Benefits Protection and Improvement Act (BIPA) of 2000 amends §1814(a)(7) of the Act by clarifying that the certification of terminal illness of an individual who elects hospice “shall be based on the physician’s or medical director’s clinical judgment regarding the normal course of the individual’s illness.” This clarification is effective for certifications made on or after the date of BIPA enactment, which was December 21, 2000.

The amendment to §1814(a)(7) of the Act clarifies current policy, that the certification is based on clinical judgment regarding the normal course of illness, and further emphasizes the understanding that making medical prognostication of life expectancy is not always exact.

Intermediaries should inform hospice providers of this statutory clarification of current Medicare policy within 30 days of the implementation date.

Carriers should publish this instruction in their next regularly scheduled bulletin following the implementation date.

The effective date for this Program Memorandum (PM) is December 21, 2000.

The implementation date for this PM is February 1, 2001.

These instructions should be implemented within your current operating budget.

This PM may be discarded after February 1, 2003.

If you have any questions contact Lynn Riley at (410) 786-1286.