CHAPTER 2

THE CERTIFICATION PROCESS

Hospices

Hospices

2080. HOSPICE - CITATIONS AND DESCRIPTION

A. Citations.--Section 1861(u) of the Act created hospices as a provider category. Section 1861(dd) of the Act defines hospice care and the hospice program. 42 CFR 418 sets forth the CoPs. 42 CFR Part 418.100 is an additional Condition applicable only to hospices that provide short-term inpatient care and respite care directly, rather than under arrangements with other participating providers. Section 1866(a)(1)(Q) of the Act, as added by §4206(a)(1)(C) of OBRA 1990, P.L. Number 101-508, requires hospices, among other providers, to file an agreement with the Secretary to comply with the requirements found in §1866 of the Act regarding advance directives.

B. Description.--Hospice care is an approach to caring for terminally ill individuals that stresses palliative care (relief of pain and uncomfortable symptoms), as opposed to curative care. In addition to meeting the patient's medical needs, hospice care addresses the physical, psychosocial, and spiritual needs of the patient, as well as the psychosocial needs of the patient's family/caregiver. The emphasis of the hospice program is on keeping the hospice patient at home with family and friends as long as possible.

Although some hospices are located in hospitals, SNFs, and HHAs, hospices must meet specific CoPs and be separately certified and approved for Medicare participation. (See Exhibit 129 for Hospice Survey and Deficiencies Report, Form HCFA-643 and Exhibit 72 for Hospice Request for Certification in the Medicare Program, Form HCFA-417.)

C. Services and Items Provided.--Substantially all core services must be provided directly by hospice employees on a routine basis. A hospice may use contracted staff for core services only under extraordinary circumstances (i.e., to supplement hospice employees in order to meet patients' needs during periods of peak patient load.) If contracting is used, the hospice must continue to maintain professional, financial, and administrative responsibility for the services.

The following are hospice core services and must be provided directly by hospice employees:

- Nursing care provided by or under the supervision of an RN functioning within a medically approved plan of care;
- Medical social services under the direction of a physician;
- Physician's services; and

- o Counseling (including dietary and bereavement counseling) with respect to care of the terminally ill individual and adjustment to death.

- o Physical and occupational therapy and speech-language pathology services;

- o Home health aide services. A home health aide employed by a hospice, either working in an HHA, as specified in 42 CFR Part 484.36;

- o Homemaker services;

- o Medical supplies (including drugs and biologicals) and the use of medical appliances related to the terminal diagnosis;

- o Short-term inpatient care (including both respite care and procedures necessary inpatient facility; and

- o Continuous home care provided for a period of 8 or more hours in a day during disciplines.

Medicare beneficiaries unable to pay for hospice care.

CoPs.

NOTE: Section 1861(dd)(4)(A) of the Act states that if a hospice is approved as being part of another type of provider, with a separate provider number, it shall be considered to meet those CoPs that are common to both the hospice and the other type of provider.

2081. HOSPICE - MULTIPLE LOCATIONS

Neither the statute nor the hospice regulations provides for establishing hospice "satellite" offices. Nonetheless, a hospice is not precluded from providing services at more than one location if certain requirements assuring quality of care are met and these locations are approved by the RO. The RO, in order to support HCFA's responsibility to protect the Medicare trust fund against excessive and unnecessary costs, will also ensure that the locations promote cost effective health care. This includes reimbursing hospices at a rate that has been established for the local area. The RO will make a final determination on both quality and cost effectiveness issues with the assistance of the State agency and the fiscal intermediary, if necessary, and will notify all parties of its decision.

To support our concern for quality, HCFA requires a hospice who provides services at more than one location, to comply with the following:

- The hospice must be able to exert the supervision and control necessary at each location to assure that all hospice care and services continue to be responsive to the needs of the patient/family at all times and in all settings. Hospice care requires the closest of interventions and a distant "parent" cannot provide the immediate access needed to ensure health and safety.

- Each location must provide the same full range of services that is required of the hospice issued the provider number;

- Each location must be responsible to the same governing body and central administration that governs the hospice issued the provider number, and the governing body and central administration must be able to adequately manage the location and assure quality of care at the location; and

o

hospice site issued the provider number.

number.

compliance issue for the entire hospice.

2082.

CERTIFIED FACILITY

the individual's hospice care in accordance with the hospice CoPs and makes any arrangements necessary for inpatient care in a participating Medicare or Medicaid facility.

A. Compliance With SNF/NF CoPs.--The SNF/NF CoPs are applicable to all of the

individuals regardless of source of payment."

philosophy of care.

the implementation of the plan of care. (See 42 CFR 418.68(d).)

status.

The SNF/NF and the hospice are responsible for performing each of their respective functions which have been agreed upon and included in the plan of care. The hospice retains overall professional management responsibility for directing the implementation of the plan of care. In addition:

- o All covered hospice services must be available as necessary to meet the needs of the patient;

- o Substantially all core services must be routinely provided directly by hospice employees and cannot be delegated to the SNF/NF. (See 42 CFR Part 418.80);

- o Drugs and medical supplies must be provided as needed for the palliation and management of the terminal illness and related conditions. Drugs must be furnished in accordance with accepted professional standards of practice. (See 42 CFR Part §418.96); and

- o The plan of care should reflect the participation of the hospice, SNF/NF, and the patient to the extent possible. The hospice and the SNF/NF must communicate with each other when any changes are indicated to the plan of care, and each provider must be aware of the other's responsibilities in implementing the plan of care.

Evidence of this coordinated plan of care must be present in the clinical records of both providers. All aspects of the plan of care should reflect the hospice philosophy.

The SNF/NF services must be consistent with the plan of care developed in coordination with the hospice. The hospice patient residing in a SNF/NF should not experience any lack of SNF/NF services or personal care because of his/her status as a hospice patient. The plan of care must include directives for managing pain and other uncomfortable symptoms and be revised and updated as necessary to reflect the individual's current status. The SNF/NF must offer the same services to its residents who have elected the hospice benefit as it furnishes to its residents who have not elected the hospice benefit. The patient/resident has the right to refuse any services.

B. Professional Management.--The use of the term "professional management" for a hospice patient who resides in a SNF/NF should have the same meaning to a hospice that it would have if the hospice patient were living in his/her own home. The professional services usually provided by the hospice to the patient in his/her home should continue to be provided by the hospice to the resident in a SNF, NF, or other place of residence. This includes furnishing any necessary medical services to those patients that the hospice would normally furnish to patients in their homes. In addition, substantially all hospice core services (physician services, nursing services, medical social services, and counseling) must be routinely provided directly by hospice employees and cannot be delegated. The hospice may involve the SNF/NF nursing personnel in assisting with the administration of prescribed therapies included in the plan of care only to the extent that the hospice would routinely utilize the

SNF/NF staff who are permitted by the facility and by law may assist in the administration of

coordination with the SNF/NF.)

C. Provision of Non-Core Services To SNF/NF Residents.--The hospice may arrange to have non-core hospice services provided by the SNF/NF if the hospice assumes professional

accordance with
the policies of the hospice and the patient's plan of care. (See 42 CFR Part §418.56.)

D. SNF/NF Residents and Dually-Eligible Beneficiaries.--A Medicare beneficiary who

beneficiary.

care, and the hospice pays the facility. Room and board services include:

- o Performing personal care services;
- o Assisting with activities of daily living;
- o Administering medication;
- o Socializing activities;
- o Maintaining the cleanliness of a resident's room; and
- o Supervising and assisting in the use of DME and prescribed therapies.

notified as to the patient's decision.

2083. HOSPICE REGULATIONS AND NON-MEDICARE PATIENTS

exception of the following regulations, which apply only to Medicare beneficiaries:

42 CFR Part 418.60 - the continuation of care requirement; and

42 CFR Part 418.98(c) - the 80-20 inpatient care limitation.

2084. ARRANGEMENTS

A. Hospice Provides Inpatient Care Directly.--If a hospice provides inpatient care

of beds, or a wing.

B. Hospice Provides Inpatient Services Under Arrangements.--When inpatient services

each site is not required. In these cases, the SA reviews the agreement and patient files to assure that standards in 42 CFR Part 418.100(a) (24-hour nursing service) and (**e**) (comfort and privacy of patient

C. Hospice Provides Inpatient Services in Space Shared With Medicare-Approved Hospital or SNF at Same Location.--When inpatient services are provided at a location also approved

418.100(a) and (e).

APPLICABILITY OF INPATIENT CARE CoP
42 CFR Part 418.100

LOCATION WHERE INPATIENT CARE IS PROVIDED	APPLICABILITY OF CONDITION
Hospice inpatient unit	Survey for compliance with 42 CFR Part 418.100.
Medicare-approved hospital or SNF under arrangements with hospice	Survey for compliance with 42 CFR Part 418.100(a) and 418.100(e). Review both the agreement between the contracting parties and patient records to assure that the hospice arrangements are in compliance with the regulations. The institution already meets the remaining requirements of 42 CFR Part 418.100 as a Medicare-approved hospital or SNF. Do not inspect the hospital or SNF.
Hospice dually certified as hospital or SNF and as a hospice	Survey for compliance with 42 CFR Part 418.100(a) and 418.100(**e**).

	The institution already meets the remaining requirements of 42 CFR Part 418.100 as a Medicare-approved hospital or SNF.
Medicaid-approved NF (respite care only)	Survey for compliance with 42 CFR Part 418.100(a) and 418.100(**e**).

2085. OPERATION OF HOSPICE ACROSS STATE LINES

sides of State boundaries are most likely to generate an extension of services.

requirements are met.

2086. HOSPICE HOME VISITS

model consent for hospice home visit form (Exhibit 128).)

2087. COMPLIANCE WITH ADVANCE DIRECTIVES

directives. Specifically, a hospice must agree to maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the hospice and must, at the time of initial receipt of hospice care by the individual from the program:

- Provide the individual with written information concerning his or her rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;

- Provide the individual with the hospice's written policies and procedures concerning the implementation of such rights;

- Document in the individual's medical record whether he/she has executed an advance directive;

- Not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

- Ensure compliance with requirements of State law (whether statutory or as recognized by the courts of the State) concerning advance directives; and

- Provide (individually or with others) for education of staff and the community on issues concerning advance directives.

The facility is not required to provide care that conflicts with an advance directive. In addition, the facility is also not required to implement an advance directive if, as a matter of conscience, the facility cannot implement an advance directive and State law allows the provider to conscientiously object.

Compliance with the advance directives requirements is necessary for continued participation in the Medicare and Medicaid programs.