



UnityPoint Health

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June 9, 2020

Seema Verma, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS–1733–P
P.O. Box 8010
Baltimore, MD 21244–1850

RE: CMS–1733–P– Medicare Program; FY 2021 Hospice Wage Index and Payment Rate Update; published in Vol. 85, No. 73 Federal Register 20949-20967 on April 15, 2020.

Submitted electronically via www.regulations.gov

Dear Administrator Verma:

UnityPoint Hospice appreciates this opportunity to provide comments on this proposed rule related to hospice rates and quality reporting. Our parent organization, UnityPoint at Home, is the home health agency affiliated with UnityPoint Health, one of the nation's most integrated healthcare systems. Through more than 32,000 employees and our relationships with more than 310 physician clinics, 39 hospitals in metropolitan and rural communities and 19 home health agencies throughout our 9 regions, UnityPoint Health provides care throughout Iowa, central Illinois and southern Wisconsin. As its home health arm, UnityPoint at Home offers a diverse set of programs: traditional home health, durable medical equipment (DME), pharmacy, palliative care, hospice care, and (in certain locales) public health.

UnityPoint at Home has long recognized the importance of hospice services for our patients. UnityPoint Hospice is affiliated with 5 Medicare certified agencies in Iowa¹ and Illinois and provides high quality care in those service areas. In addition, we are committed to payment reform and are actively engaged in numerous initiatives which support population health and value-based care. Among these initiatives, UnityPoint at Home is an ACO Participant in the CMMI Next Generation ACO Model, is participating in the Home Health Value-Based Purchasing (HHVBP) Model in Iowa, and is a CMMI Medicare Care Choices Model awardee in three Iowa regions.

UnityPoint Hospice appreciates the time and effort of CMS in developing this proposed rule. We respectfully offer the following input.

PROPOSED FY 2021 HOSPICE WAGE INDEX AND RATE UPDATE

¹ Iowa does not require hospice licensure.

The proposed hospice payment update percentage for FY2021 would be 2.6 percent. As a result, the proposed FY2021 payments rates are: Routine Home Care (days 1-60) code 651, \$199.34; Routine Home Care (days 61+) code 651, \$157.56; Continuous Home Care code 652, \$1,430.63; Inpatient Respite Care code 655, \$461.48; and General Inpatient Care code 656, \$1,046.55. The FY2020 hospice cap amount will be \$30,743.86.

Comment: We support the overall rate increase of 2.6% for 2021.

Additionally, we note that CMS has again increased the cap amount. UnityPoint Hospice operates hospice agencies in Iowa and Illinois. Our hospice agencies have rarely hit the cap amount, and we attribute this to our focus on the appropriate interpretation and use of hospice program admission and discharge rules. We recognize that not all hospice agencies operate similarly and believe that ***the cap amount is an area that CMS could explore under its program integrity authority using available claims and quality data.*** Because data is available, this administrative review could be done with little additional burden to hospice agencies and would allow CMS to target enforcement to questionable practices by hospice agencies.

ELECTION STATEMENT CONTENT MODIFICATIONS AND ADDENDUM

The rule provides model examples of the hospice election statement and the hospice election statement addendum to reflect the changes finalized in the FY 2020 hospice final rule for elections on or after October 1, 2020.

Comment: UnityPoint Hospice recognizes that CMS is “working around the clock to equip the American healthcare system with maximum flexibility to respond to the 2019 Novel Coronavirus (COVID-19) pandemic.”² Because of the efforts needed by hospice providers in response to the COVID-19 pandemic, ***we would request that CMS:***

- ***Delay the effective date*** for the election statement and addendum requirements until at least one full federal fiscal year or calendar year after the end of the COVID- 19 Public Health Emergency.
- ***Clarify the language in the Condition of Participation*** as the language relates to the election statement and addendum forms.
- ***Ensure that both the Quality Improvement Organizations (QIO) and Medicare Administrative Contractors (MAC) have received guidance*** from CMS and are prepared to address these requirements prior to their effective date.
- ***Specify the sizing, format, and content of information on the actual addendum.***

COVID-19 PUBLIC HEALTH EMERGENCY WAIVERS

Since the beginning of the COVID-19 Public Health Emergency, CMS has issued an array of temporary regulatory waivers and new rules to equip the American healthcare system, include hospice agencies, with maximum flexibility to respond to the COVID-19 pandemic.

² CMS, Fact Sheet: Fiscal Year 2021 Hospice Payment Rate Update Proposed Rule (CMS-1733-P), April 10, 2020, accessed at <https://www.cms.gov/newsroom/fact-sheets/fiscal-year-2021-hospice-payment-rate-update-proposed-rule-cms-1733-p>

Comment: ***UnityPoint Hospice appreciates the speed by which CMS was able to enact these COVID-19 Public Health Emergency (PHE) flexibilities / waivers.*** These COVID-19 PHE waivers have helped us to continue to provide both high quality care and a high level of patient/ family experience in the midst of the PHE. These waivers have been invaluable and the ability to leverage multiple flexibilities as patient needs and circumstances dictate has facilitated patient-centric care. As CMS is deliberating whether to extend these flexibilities post-PHE, we offer the following commentary and requests:

Medicare Telehealth and Telecommunications Technology:

- ***Face-to-Face Encounters:*** Under the COVID-19 flexibilities, telehealth is authorized to fulfill the face-to-face encounters for purposes of patient recertification for the Medicare hospice benefit (i.e., 2-way audio-video telecommunications technology that allows for real-time interaction between the hospice physician/hospice nurse practitioner and the patient). This waiver of 42 CFR 418.22 allows us to complete the face-to-face encounter for our patients where actual visits have been restricted by nursing facilities and for patients in their homes. This telehealth modality has enabled the hospice requirement to be conducted safely, timely and efficiently without compromising quality. ***We would request this continued use of telehealth in the future as it allows access for providers in areas where shortages of Advanced Registered Nurse Practitioners and physicians exist, such as rural areas. In addition, we would request that this waiver be expanded to include telephonic audio communications, to accommodate our patients who do not have smart devices or broadband service, and that CMS consider an allowance for hospice provider clinical services (e/m codes) conducted via telehealth to be billed as regular physician services, comparable to community physicians.***
- ***Routine Home Care Services:*** Under the COVID-19 flexibilities, hospice providers can provide services to a Medicare patient receiving routine home care through telecommunications technology (e.g., remote patient monitoring; telephone calls (audio only and TTY); and 2-way audio-video technology), if it is feasible and appropriate to do so. Only in-person visits are to be recorded on the hospice claim. This waiver of 42 CFR 418.204 authorizes telehealth services to include routine hospice visits on the plan of care and for assessment purposes and permits use of various technologies, including audio-only telephonic interactions, on an as needed based on technology available to the patient. ***UnityPoint Hospice would request that this flexibility continue after the PHE and that CMS consider permitting inclusion of telehealth visits on the hospice claim. During our regional recent surge of the pandemic, UnityPoint Hospice provided an average of 50-60% of our visits through telehealth (audio-visual) to enable hospice team members to connect with family and patients in nursing facilities, where the hospice team were otherwise restricted.*** COVID-19 visitation restrictions have been challenging regardless of care setting, and this is particularly true for hospice patients, many of which have underlying conditions putting them at high risk for COVID complications. Recently, one of our hospice agencies was caring for a positive COVID-19 patient diagnosed while hospitalized but who wanted to return to the nursing facility. Visitation at the hospital and nursing facility were restricted for the hospice team and the family. With the Routine Home Care telehealth waiver, UnityPoint Hospice was able to connect family / patient and the hospice registered nurse, chaplain and social worker to discuss last moments plan for the

patient. Ultimately the telehealth waiver allowed the family to say good-bye and see that their loved one was peaceful and comfortable.

Workforce:

- **Hospice Aide Training and Supervision:** Several flexibilities have addressed training and supervision needs:
 - ***Inservice Training:*** Under the COVID-19 flexibilities, the 12-hour annual in-service training requirement for hospice aides is waived. ***UnityPoint Hospice is supportive, as this has allowed our hospice aides to remain in the field to provide care to hospice patients during surges.***
 - ***Competency Evaluation:*** Under the COVID-19 flexibilities, hospices are allowed to use pseudo patients for competency testing of aides for tasks that must be observed on patient and “qualified hospice aides” are defined to include those who are competency tested only in the areas / tasks for which they will be assigned. ***These flexibilities have been very helpful in orientation of new hospice aides, as visits for many patients in nursing facilities and homes were restricted to only one or even no hospice team members.***
 - ***Onsite Supervision:*** Under the COVID-19 flexibilities, the requirement that a nurse conduct an onsite visit every two weeks (42 CFR 418.76(h)) is waived. The use of phone calls / audio-visual visits in supervision of aides has been used effectively to conserve PPE. ***UnityPoint Hospice encourages the continuation of telephonic / telehealth supervision of hospice aides and LPNs/LVNs to meet supervision requirements where appropriate.***
- **Use of Hospice Volunteers:** Under the COVID-19 flexibilities, the mandated use of volunteers by hospice, including at least 5% of patient care hours, is waived (42 CFR §418.78(e)). This flexibility is essential to accommodate the new workflows and care delivery restrictions. ***UnityPoint Hospice did use the flexibility and limited volunteers visits in the home / office in response to periods of remote work, to conserve PPE for essential workers, and to visitation restrictions in nursing facilities and circumstances within some patients’ / families’ homes.***
- **Quality Assurance and Performance Improvement (QAPI):** Under the COVID-19 flexibilities, hospice requirements to develop, implement, evaluate, and maintain an effective, ongoing, hospice-wide, data-driven QAPI program are modified. Specifically, the scope of the QAPI program (42 CFR §418.58(a)–(d)) is narrowed to concentrate on infection control issues, while retaining the requirement that remaining activities should continue to focus on adverse events. ***UnityPoint Hospice supports the narrow scope of QAPI program to concentrate on infection control and adverse events.*** Our comprehensive QAPI program already includes a focus on infection surveillance, prevention and mitigation, so this waiver did not have a significant impact on our practice but reinforces an emphasis on PHE priorities.

Patients Over Paperwork:

- **Non-Core Services:** Under the COVID-19 flexibilities, certain non-core hospice services are waived by the PHE, including the requirements at 42 CFR §418.72 for physical therapy (PT), occupational therapy (OT), and speech-language pathology (speech). ***Due to supply limits on personal protective equipment (PPE) during the PHE, this waiver has allowed us to conserve PPE and keep patients and health care professionals safe while remaining compliant with hospice benefit requirements.***

That said, when patient specific needs for PT, OT, or speech dictated these services during the PHE, we were able to employ the telehealth waiver to provide these services.

- **Comprehensive Assessments**: Under the COVID-19 flexibilities, certain requirements under 42 CFR §418.54(d) related to comprehensive assessments of patients were updated. While hospices must continue to complete the required assessments and updates, the timeframes for updating the assessment is able to be extended from 15 to 21 days. As the term implies, “comprehensive assessments” involve evaluation by the interdisciplinary group and must be fit into existing workload schedules. In regions with health care professional shortages, this timeframe can be challenging. ***UnityPoint Hospice would request permanency of a 21-day timeframe for completion of initial and comprehensive assessments, updates to the comprehensive assessment, and review of the plan of care.***
- **Potential Waiver for Notice of Election**: This proposed flexibility has not yet been approved by CMS; however, it has been a barrier and challenge to benefit election during the four to six weeks of highest surge of COVID-19 PHE. ***UnityPoint Hospice requests CMS to consider modifying 42 CFR 418.24 to provide flexibility to the 5-calendar-day timely filing requirement for Notice of Election (NOE) or Notice of Termination / Revocation (NOTR) and permit verbal election of the Medicare Hospice Benefit in circumstances where the patient is unable to make his / her own decisions and the legal representative cannot be available to sign the statement due to the pandemic / is not able to utilize alternative methods of delivery of a signed election statement (i.e. mail, FAX, etc.).***

We are pleased to provide input on this proposed rule and its impact on our hospice agencies and our patients, their caregivers and families. To discuss our comments or for additional information on any of the addressed topics, please contact Cathy Simmons, Government & External Affairs at Cathy.Simmons@unitypoint.org or 319-361-2336.

Sincerely,



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