Hospice Certifying Enrollment

Questions and Answers (Q & A) Document

September 19, 2024

NOTE: In the event of any inconsistency, the policies in this Q & A document supersede those in the March 26, 2024, Medicare Learning Network update regarding the hospice certifying requirement at https://www.cms.gov/Outreach-and-Education/Medicare-Learning-NetworkMLN/MLNProducts/html/medicare-payment-systems.html#Hospice.

Q: What is the hospice certifying requirement?

A: Starting June 3, 2024, under Section 6405 of the Affordable Care Act, the following physicians must be enrolled in or opted-out of Medicare for the service to be paid:

1. Hospice medical director or the physician member of the hospice interdisciplinary group who certifies the patient's terminal condition (hereafter occasionally referenced as "hospice physician").
2. Patient-designated attending physician (if they have one) who certifies their terminal condition. The attending physician must meet the definition of "physician" specified in 42 CFR § 410.20(b).

Under 42 CFR § 418.22(c), these two categories of physicians must initially certify the patient's terminal condition. For subsequent coverage periods, only the hospice physician must certify the patient's terminal condition.

Q: Does this new requirement change who can certify for hospice services?

A: Except for the new enrollment or opt-out requirement, nothing is changing under 42 CFR § 418.22 regarding who may certify the patient's terminal illness.

Q: If the physician is enrolling in Medicare to satisfy the new requirement, which enrollment form should be submitted?

A: Unless the physician is planning to also bill Medicare for Part B services (in which case the Form CMS-855I should be submitted), he/she should submit the Form CMS-855O. In other words, if the physician is enrolling solely to certify hospice services under § 418.22(c) and will not bill Medicare for services furnished, the Form CMS-855O should be submitted.

Q: To further clarify the prior Q/A, is a physician (Physician X) employed by or under contracted with a hospice and not performing any services outside of the hospice ineligible for enrollment via the Form CMS-855I or the Form CMS-855O?

A:

- Form CMS-855I - If Physician X will not bill Medicare Part B for services and only Part A hospice services are involved, he/she cannot enroll via the Form CMS-855I.

- Form CMS-855O – Since Form CMS-855O enrollment is for physicians who wish to order/certify services (including providing the § 418.22(c) certifications) but do not intend to bill Medicare for services, Physician X can enroll via the Form CMS-855O.

Q: What, if anything, do currently enrolled or opted-out physicians need to do regarding this requirement?

A: If the physician is currently enrolled or opted-out, the physician does not need to do anything. The physician already meets the enrollment/opt-out requirement. In addition, it is unnecessary for the physician to have designated "hospice" as their specialty on their enrollment application. If the physician is enrolled or opted-out, they meet the new enrollment/opt-out requirement regardless of the specialty listed on their application.

Q: How can one check to see: (1) whether a physician is enrolled or opted-out; and (2) when a physician is due to revalidate his/her enrollment? Also, concerning the latter, the Medicare Revalidation List webpage at https://data.cms.gov/tools/medicare-revalidation-list includes the following note: "*No revalidation due dates will be issued for individual practitioners starting with the January 2024 due dates until further notice*." Does CMS have an expected timeframe for when revalidation due dates will be issued for physicians?

A: Hospices can verify a physician's enrollment or opt-out status using the CMS ordering and referring data file (ORDF), which lists all Medicare-enrolled and opted-out physicians. The ORDF has a separate column for hospice enrolled/opted-out physicians.

The Revalidation List will be updated (and the physician himself/herself will be notified by the MAC) when it is time for the physician to revalidate his/her enrollment. CMS does not have an expected timeframe for issuing revalidation due dates for physicians.

Q: A physician is enrolled and intends to certify for hospice services. However, the "Y" box in the Hospice column next to the physician's name in the ORDF is not checked. Does this mean the physician cannot certify for hospice services?

A: If an individual is listed on the ORDF, it means that he/she meets the requirement to enroll or opt-out as a prerequisite for ordering or certifying the services/items outlined in 42 CFR 424.507. These are hospice services, home health services, DMEPOS items, clinical laboratory services, and imaging services. Meeting the requirement to enroll/opt-out under 42 CFR § 424.507 is different, however, than the individual qualifying as a provider/supplier type under Medicare regulations that can order or certify the service/item. For example, suppose an individual provider – Practitioner Smith -- is enrolled in Medicare to order/certify. He/she may meet the regulatory requirements to order DMEPOS items for patients but not to certify for hospice services per § 418.22(c). Whether an enrolled/opted-out individual listed in the ORDF is of a provider type that can order/certify for the services/items in § 424.507 may be denoted by a "Y" or "N" in the ORDF column for that service. Using our above example, the ORDF DMEPOS column next to Smith's name may indicate "Y" while the Hospice column may indicate "N."

To reiterate, it is critical to distinguish the enrollment/opt-out requirement under § 424.507 from the ability of a certain provider type to order or certify a particular service or item. Simply because a non-physician practitioner type is enrolled or opted-out does not in and of itself mean that said type can order/certify a service/item under Medicare regulations. Moreover, although the ODRF will often indicate whether an individual is of a provider/supplier type that can order/certify services, hospices should NOT rely exclusively on the ORDF for this determination. It is ultimately the hospice's responsibility to ensure that the individuals who certify the services the hospice furnishes are eligible to do so under § 418.22(c).

Q: Must the certifying or recertifying physician remain enrolled for the patient's entire certification and benefit period?

A: The hospice physician and attending physician only need to be enrolled or opted-out at the time they make the certification or recertification. The physician does not need to remain enrolled or opted-out during the patient's entire certification and benefit period. Moreover, if the physician becomes unenrolled and non-opted-out, the hospice does not need to get a new certification to replace the one the previously enrolled or opted-out physician signed.

In a similar vein, the edits will only apply to claims with dates of service on or after June 3, 2024. If the service began prior to June 3 but continues through and after June 3, the edits will not apply until a claim is submitted with dates of services on or after June 3.

Q: For the enrollment/opt-out requirement, how should the claim form be completed and what will be validated?

A: We address this matter at CMS Pub. 100-04, Chapter 11, Section 30.3 and CMS Change Request (CR) 13531.

(1) Attending Physician field - The hospice shall enter the name and provider identifier of the attending physician, which could be an independent physician, hospice physician, a nurse practitioner, or physician assistant. If there is no attending physician listed, the hospice shall report the hospice certifying/recertifying physician.

(2) Other Physician field - The hospice shall enter the name and provider identifier of the hospice physician responsible for certifying/recertifying that the patient is terminally ill.

Both the attending physician and other physician fields should be completed unless the patient's designated attending physician is the same as the physician certifying/recertifying the terminal illness. When the attending physician is also the physician certifying/recertifying the terminal illness, only the attending physician field is required to be populated; the other physician field would not need to be populated.

From June 3, 2024, through October 6, 2024, CMS is only verifying the enrollment/opt-out status of the physician listed in the claim's "Attending Physician" field when the claim is submitted for the initial certification/recertification. Accordingly, hospices should enter the certifying physician in the "Attending Physician" field. So long as the hospice enters a physician in the "Attending Physician" field and that physician is in the PECOS record that is valid for edit dates, the claim will not edit.

Beginning October 7, 2024, CMS will begin verifying the enrollment/opt-out status of physicians listed in the "Other Physician" field. Once that occurs, CMS will check both the "Attending Physician" field and the "Other Physician" field. Additional details regarding the verification checks beginning on October 7, 2024, are in CR 13531.

Q: When is occurrence code 27 and the date required?

A: The OC 27 code/date is only required on claims where initial certification or recertification occurs. CMS will not be conducting certifying/recertifying physician enrollment checks on physicians reported on claims that do not have occurrence code 27 and date reported.

Q: Are physician assistants (PAs) and nurse practitioners (NPs) subject to this new enrollment/opt-out requirement concerning hospice services?

A: PAs and NPs cannot certify or recertify a patient for hospice as referenced in § 418.22(c). We stated this in CMS-1787-F, which is the regulation that finalized our new provision (88 FR 51164). Accordingly, they need not be enrolled for purposes of meeting the enrollment/optout requirements of § 424.507(b) regarding hospice certifications under § 418.22(c).

Q: Do VA physicians need to do anything other than apply using the Form CMS-855O to certify hospice services?

A: If the VA physician (1) is not currently enrolled in/opted-out of Medicare, (2) wishes to furnish the Medicare certifications described in § 418.22(c), and (3) will not bill Medicare for services furnished, he/she need only submit the Form CMS-855O.