

Medicare/Medicaid: Hospice Care In Skilled Nursing, Long Term Care Facilities, New CMS Regulations.

On October 22, 2010 the US Centers for Medicare and Medicaid Services (CMS) announced proposed new regulations to ensure that long term care facilities, that is, skilled nursing facilities and nursing facilities, that arrange for hospice care through an agreement with one or more Medicare-certified hospice providers have in place a written agreement with the hospice provider that specifies their respective roles and responsibilities.

Under current regulations a long term care facility may choose to have a written agreement with one or more hospice providers to provide hospice care to a Medicare eligible resident who wishes to elect the hospice benefit.

However, if the facility chooses not to contract with a Medicare-certified hospice to provide hospice services for the resident who wishes to elect the benefit, the facility is responsible for assisting the resident in transferring to a facility that will arrange for the provision of such services.

CMS believes there is a lack of clear regulatory direction as to the responsibilities of providers caring for residents who receive hospice care from a Medicare-certified hospice provider, which could result in duplicative or missing services.

CMS believes this problem would be remedied by a regulatory requirement for a written agreement between the two types of entities when they are both involved in the care of a Medicare beneficiary. A written agreement would help ensure that required services are provided to beneficiar-

CMS's proposed new regulations are not mandatory at this time. CMS is accepting public comments until December 21, 2010.

We have placed the full text of CMS's announcement on our website at <http://www.nursinglaw.com/CMS102210.pdf>.

The new regulations begin on page 9, Federal Register page 65290.

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ies and protect beneficiary health and safety, which could be endangered by a lack of coordination between hospice and long term care providers.

Such an agreement would ensure that care is coordinated by specifying what services each provider will provide. For instance, a long term care facility is considered a resident's home. An agreement between the providers would specify that the long term care facility must furnish room and board and meet personal care and nursing needs, while the hospice must provide services that are necessary for the care of the resident's terminal illness, such as counseling and palliation of pain.

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