

BQC - 89 - 079

Date: November 28, 1989

To: All Certified Wisconsin Hospices
All Wisconsin Nursing Homes

From: Larry Tainter, Director
Bureau of Quality Assurance

Subject: Patients of Certified Hospices Residing in Wisconsin Nursing Homes

Recently the Bureau of Quality Compliance has received a number of questions from both certified hospices and nursing homes related to the requirements both providers must meet when a hospice patient is residing in a nursing home, either as a permanent resident or for "short-term" respite care.

First, it is important to understand that a patient of a certified hospice remains the responsibility of the hospice. This includes both hospice patients placed in nursing homes for "short-term" respite stays or a nursing home resident that opts for the Medicare hospice benefit and becomes a patient of a certified hospice.

In either case, the Medicare certified hospice and the nursing home may enter into arrangements which detail the responsibility of both providers. The Health Care Financing Administration (HCFA) has recently provided guidance regarding these arrangements in response to questions asked by the Bureau of Quality Compliance.

The following are HCFA's responses to specific Bureau questions:

QUESTION: Please clarify the language and intent within section 2082 "...the hospice takes responsibility for the professional management of the individual's hospice care..." What are the functions/operational limits of the word management?

ANSWER: The use of the term management for a hospice patient who resides in a nursing home should have the same meaning to a hospice program that it would have if the patient were residing in his or her own home. In essence, the nursing home activities supplant the activities of the family. The arrangements negotiated with the nursing home should delineate those activities which are included in "room and board" as defined in section 1905(o)(3) of the Social Security Act "...the term room and board includes performance of personal care services, including assistance in activities of daily living, in socializing activities, in administration of medications, maintaining the cleanliness of a resident's room, and supervising and assisting in the use of durable medical equipment and prescribed therapies."

Significant in this response is that the hospice may arrange to have the nursing home administer medications.

QUESTION: Should the supervision of the aide services, (418.94(a)), the provision of medical supplies and appliances including drugs and biologicals (418.96) and the core team services, (418.80), remain the responsibility of the hospice?

ANSWER: The professional services usually provided by the hospice to the patient in his or her own home should continue to be provided by the hospice to the resident in the nursing home. This would include the

direct provision of nursing (except 418.96(c)(1)), the provision of drugs and biologicals, social work, therapies, physician care and pastoral or other counseling. Volunteer services as defined in 418.70 should also be provided directly by the hospice.

Significant in this response is that the hospice must provide the hospice core services directly and is responsible for supplying needed drugs and biologicals.

QUESTION: Are there instances other than “extraordinary circumstances” when the nursing home could provide professional services for the hospice by formal contract under 418.56?

ANSWER: No. A hospice may well contract with a nursing facility to provide core services in extraordinary circumstances, e.g., in circumstances under which a hospice employee may be ill or where peak patient loads makes it difficult to supply nursing for continuous home care; however, we do not see the potential for additional delegations of responsibility simply because the hospice patient resides in the nursing facility.

In addition, both certified hospices and nursing homes have asked whether all nursing home rules under HSS 132 will apply to hospice patients admitted to nursing homes. The Bureau of Quality Compliance will routinely waive HSS 132 codes except for the following:

HSS 132.42 - employee health requirements

HSS 132.43 - abuse

HSS 132.31 - resident rights

HSS 132.53 - removals from the facility

HSS 132.54 - inhouse transfer rights

HSS132.51(2)(b) - admission of patients with communicable disease

HSS 132.52(2)(c) - requirement that a patient be free of TB/communicable diseases or have physician’s order for treatment

HSS 132.60(4) - emergency care - This relates to unplanned emergency situations. Unplanned emergencies upon which the nursing home must act should be clearly communicated between hospice and nursing home. Additionally, protocols to limit medical treatment should be clearly spelled out in the contract. The patient’s condition, needs and expected problems should be communicated to nursing home staff in the inservices given by the hospice to nursing home staff providing direct care. Obviously, since the patient is the hospice’s patient, the hospice must be immediately notified in emergency situations.

In this regard, the reporting of condition changes and requests for changes in physician orders must go through the hospice which has responsibility for the patient.

HSS 132.65(a) - medication control system

HSS 132.65(6)(f) - medication control system for residents who self medicate

HSS 132.71 - physical environment

HSS 132.72 - housekeeping

HSS 132.81 - scope of construction rules and definitions

HSS 132.82 - life safety code

HSS 132.83 - safety and systems

HSS 132.84 - design

All other HSS 132 codes may be waived by the Bureau of Quality Compliance. Waiver requests should be made in writing to the Bureau for specific hospice patients. Waiver requests should be addressed to:

Allan D. Stegemann, Chief
Facilities Regulation Section
Bureau of Quality Compliance
Division of Health
P.O. Box 309
Madison, WI 53701

If patients of certified hospices are residing in nursing homes at the time of the nursing home survey, the Bureau's long term care surveyors should be informed that the residents are patients of a certified hospice. The long term care surveyors would refer any care problems they may notice to the Bureau's hospice surveyors for further review. Obviously any problems associated with a hospice patient in a nursing home, related to HSS 132 codes not waived, may be cited.

Additionally, the Bureau's hospice surveyors may visit hospice patients residing in nursing homes, if they are chosen for a home visit.

If you have any questions regarding these waivers or the survey processes, please call Allan Stegemann at (608) 266-2055.

LT:AS:jh 7614

cc: -Hospice Organization of Wisconsin
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-Wisconsin Counties Association
-Wisconsin Nursing Home Association
-Susan Wood
-Milt Stearns
-Field Operations Managers
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-Wis. Coalition for Advocacy
-Board on Aging and Long Term Care
-Service Employees International Union
-Consultants Committee WMRA
-George F. MacKenzie