

Date: May 2, 1996

To: Nursing Homes  
Hospices

BQC-96-025

NH 19

HPCE 11

From: Judy Fryback, Director  
Bureau of Quality Compliance

**Waiver of Chapter HSS 132, Wisconsin Administrative Code, for Nursing Home Residents Electing Hospice Services. Effective Date - Immediate.**

In the past, the Bureau of Quality Compliance has granted numerous waivers of specific provisions of HSS 132, Wisconsin Administrative Code, for hospice patients in nursing facilities. Rather than continuing to require individual waiver requests, the Bureau has decided to grant a statewide waiver of certain provisions of HSS 132 for nursing home residents who elect to receive hospice services.

It is important to emphasize that the nursing home and hospice providers' responsibilities for the hospice patient **must** be clearly delineated in a jointly developed legally binding written agreement. This agreement/contract must specify that the hospice will continue to maintain full responsibility for the professional management of the patient's hospice care and that the nursing facility will be responsible to provide room and board services and patient care functions included in the plan of care.

According to the Health Care Financing Administration (HCFA), the requirements found at 42 CFR 483.20 are applicable to all residents in certified long term care facilities. Even though a Skilled Nursing Facility (SNF) or Nursing Facility (NF) is the hospice patient's residence, for purposes of the hospice benefit, the facility must still comply with the requirements for participation in Medicare and/or Medicaid. This means that the resident must be assessed, have a plan of care and be provided with the services required under this jointly developed plan of care. This result can be achieved through cooperation between the hospice and nursing facility staff with the consent of the resident.

To fulfill federal requirements at 42 CFR 483.20, each time a comprehensive assessment is required, long term care facilities must complete the following:

- Minimum Data Set (MDS), or the core set of items that make up Wisconsin's Resident Assessment Instrument (RAI);
- Resident Assessment Protocol (RAP) Summary Form, on which facilities must indicate which RAPs have been triggered and the location of information gathered during the RAP review process; and
- Clinical information, e.g., assessment information, from the RAP review to assist in care planning.

The Bureau of Quality Compliance is waiving all HSS 132 Wisconsin Administrative Code nursing home requirements for a hospice patient, **except** for the following:

HSS 132.31 - Resident rights

HSS 132.42(3)(a) - This provision has been given a statewide waiver only as it restricted the hiring or continued employment of individuals with communicable diseases. The language pertaining to the employee having been screened for tuberculosis in HSS 132.42(3)(a) remains valid, however, the nonhiring or termination of an employee who tests positive for TB is prohibited by federal law.

HSS 132.43 - Abuse

HSS 132.51(2)(b) - Refer to BQC Memo 93-010

HSS 132.52(2)(c) - Refer to BQC Memo 93-010

The above two codes have been granted a statewide waiver. The waiver of these provisions does not relieve a facility from its responsibility to protect resident health, safety and welfare through the use of effective infection control measures.

- HSS 132.53 - Removal from the facility  
 HSS 132.54 - In-house transfer rights  
 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 within the written agreement or 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. Since the patient is the responsibility of the hospice, the hospice must be immediately notified in emergency situations. In this regard, the reporting of conditions changes and requests for changes in physician orders **must** go through the hospice.

- HSS 132.65(5)(e) - Medication control systems  
 HSS 132.65(6)(f) - Medication control system for patients 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 will be waived for any hospice patient residing in your facility.**

If the nursing facility has patients receiving hospice services at the time of the nursing home survey, the Bureau's long term care surveyor team should be informed. The long term care surveyors will refer any hospice care concerns they identify to the Bureau's hospice surveyors for further review. Any problems with a hospice patient that relate to unwaived HSS 132 codes may be cited. Also, be aware that Bureau hospice surveyors may visit hospice patients residing in your facility, to conduct a "home visit" with patient consent during a hospice survey.

Questions regarding this waiver may be directed to either Richard Cooperrider, Supervisor Community Based Programs, at (608) 267-7389 or, if you are a nursing facility, you may contact your Regional Field Operations Director.

The Regional Offices are:

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