

- Any Medicare services that are related to the treatment of the terminal condition for which hospice care was elected or a related condition, or services that are equivalent to hospice care, except for services provided by:
 1. The designated hospice (either directly or under arrangement);
 2. Another hospice under arrangements made by the designated hospice; or
 3. The individual's attending physician, who may be a nurse practitioner (NP) *or a physician assistant (PA)*, if that physician, *NP, or PA* is not an employee of the designated hospice or receiving compensation from the hospice for those services.

Medicare services for a condition completely unrelated to the terminal condition for which hospice was elected remain available to the patient if he or she is eligible for such care.

20 - Certification and Election Requirements

(Rev. 1, 10-01-03)

A3-3141, HO-204

20.1 - Timing and Content of Certification

(Rev. 246, Issued: 09-14-18, Effective: 12-17-18, Implementation: 12-17-18)

For the first 90-day period of hospice coverage, the hospice must obtain, no later than 2 calendar days after hospice care is initiated, (that is, by the end of the third day), oral or written certification of the terminal illness by the medical director of the hospice or the physician member of the hospice IDG, and the individual's attending physician if the individual has an attending physician.

No one other than a medical doctor or doctor of osteopathy can certify or re-certify an individual as terminally ill, meaning that the individual has a medical prognosis that his or her life expectancy is 6 months or less if the illness runs its normal course. Nurse practitioners and physician assistants cannot certify or re-certify an individual as terminally ill. In the event that a beneficiary's attending physician is a nurse practitioner or a physician assistant, the hospice medical director or the physician member of the hospice IDG certifies the individual as terminally ill.

The attending physician is a doctor of medicine or osteopathy who is legally authorized to practice medicine or surgery by the state in which he or she performs that function, a nurse practitioner, *or physician assistant*, and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care. A nurse practitioner is defined as a registered nurse who performs such services as legally authorized to perform (in the state in which the services are performed) in accordance with State law (or State regulatory mechanism provided by State law) and who meets training, education, and

experience requirements described in [42 CFR 410.75](#). *A PA is defined as a professional who has graduated from an accredited physician assistant educational program who performs such services as he or she is legally authorized to perform (in the State in which the services are performed) in accordance with State law (or State regulatory mechanism provided by State law) and who meets the training, education, and experience requirements as the Secretary may prescribe. The PA qualifications for eligibility for furnishing services under the Medicare program can be found in the regulations at 42 CFR 410.74 (c).*

Note that a rural health clinic or federally qualified healthcare clinic (FQHC) physician can be the patient's attending physician but may only bill for services as a physician under regular Part B rules. These services would not be considered rural health clinic or FQHC services or claims (e.g., the physicians do not bill under the rural health clinic provider number but they bill under their own provider number).

Initial certifications may be completed up to 15 days before hospice care is elected. Payment normally begins with the effective date of election, which is the same as the admission date. If the physician forgets to date the certification, a notarized statement or some other acceptable documentation can be obtained to verify when the certification was obtained.

For the subsequent periods, recertifications may be completed up to 15 days before the next benefit period begins. For subsequent periods, the hospice must obtain, no later than 2 calendar days after the first day of each period, a written certification statement from the medical director of the hospice or the physician member of the hospice's IDG. If the hospice cannot obtain written certification within 2 calendar days, it must obtain oral certification within 2 calendar days. When making an oral certification, the certifying physician(s) should state that the patient is terminally ill, with a prognosis of 6 months or less. Because oral certifications are an interim step sometimes needed while all the necessary documentation for the written certification is gathered, it is not necessary for the physician to sign the oral certification. Hospice staff must make an appropriate entry in the patient's medical record as soon as they receive an oral certification.

The hospice must obtain written certification of terminal illness for each benefit period, even if a single election continues in effect.

A written certification must be on file in the hospice patient's record prior to submission of a claim to the *Medicare contractor*. Clinical information and other documentation that support the medical prognosis must accompany the certification and must be filed in the medical record with the written certification. Initially, the clinical information may be provided verbally, and must be documented in the medical record and included as part of the hospice's eligibility assessment.

A complete written certification must include:

1. the statement that the individual's medical prognosis is that their life expectancy is 6 months or less if the terminal illness runs its normal course;

2. specific clinical findings and other documentation supporting a life expectancy of 6 months or less;
3. the signature(s) of the physician(s), the date signed, and the benefit period dates that the certification or recertification covers (for more on signature requirements, see Pub. 100-08, Medicare Program Integrity Manual, chapter 3, section 3.3.2.4).
4. as of October 1, 2009, the physician's brief narrative explanation of the clinical findings that supports a life expectancy of 6 months or less as part of the certification and recertification forms, or as an addendum to the certification and recertification forms;
 - If the narrative is part of the certification or recertification form, then the narrative must be located immediately above the physician's signature.
 - If the narrative exists as an addendum to the certification or recertification form, in addition to the physician's signature on the certification or recertification form, the physician must also sign immediately following the narrative in the addendum.
 - The narrative shall include a statement directly above the physician signature attesting that by signing, the physician confirms that he/she composed the narrative based on his/her review of the patient's medical record or, if applicable, his or her examination of the patient. The physician may dictate the narrative.
 - The narrative must reflect the patient's individual clinical circumstances and cannot contain check boxes or standard language used for all patients. The physician must synthesize the patient's comprehensive medical information in order to compose this brief clinical justification narrative.
 - For recertifications on or after January 1, 2011, the narrative associated with the third benefit period recertification and every subsequent recertification must include an explanation of why the clinical findings of the face-to-face encounter support a life expectancy of 6 months or less.
5. face-to-face encounter. For recertifications on or after January 1, 2011, a hospice physician or hospice nurse practitioner must have a face-to-face encounter with each hospice patient prior to the beginning of the patient's third benefit period, and prior to each subsequent benefit period. Failure to meet the face-to-face encounter requirements specified in this section results in a failure by the hospice to meet the patient's recertification of terminal illness eligibility requirement. The patient would cease to be eligible for the benefit.

The face to face encounter requirement is satisfied when the following criteria are met:

- a. **Timeframe of the encounter:** The encounter must occur prior to the recertification for the third benefit period and each subsequent benefit period. The encounter must occur no more than 30 calendar days before the third benefit period recertification and each subsequent recertification. A face-to-face encounter may occur on the first day of the benefit period and still be considered timely. (Refer to section 20.1.5.d below for an exception to this timeframe).
- b. **Attestation requirements:** A hospice physician or nurse practitioner who performs the encounter must attest in writing that he or she had a face-to-face encounter with the patient, including the date of the encounter. The attestation, its accompanying signature, and the date signed, must be a separate and distinct section of, or an addendum to, the recertification form, and must be clearly titled. Where a nurse practitioner or non-certifying hospice physician performed the encounter, the attestation must state that the clinical findings of that visit were provided to the certifying physician, for use in determining whether the patient continues to have a life expectancy of 6 months or less, should the illness run its normal course.
- c. **Practitioners who can perform the encounter:** A hospice physician or a hospice nurse practitioner can perform the encounter. A hospice physician is a physician who is employed by the hospice or working under contract with the hospice. A hospice nurse practitioner must be employed by the hospice. A hospice employee is one who receives a W-2 from the hospice or who volunteers for the hospice. If the hospice is a subdivision of an agency or organization, an employee of that agency or organization assigned to the hospice is also considered a hospice employee. Physician Assistants (PAs), clinical nurse specialists, and outside attending physicians are not authorized by section 1814(a)(7)(D)(i) of the Act to perform the face-to-face encounter for recertification.
- d. **Timeframe exceptional circumstances for new hospice admissions in the third or later benefit period:** In cases where a hospice newly admits a patient who is in the third or later benefit period, exceptional circumstances may prevent a face-to-face encounter prior to the start of the benefit period. For example, if the patient is an emergency weekend admission, it may be impossible for a hospice physician or NP to see the patient until the following Monday. Or, if CMS data systems are unavailable, the hospice may be unaware that the patient is in the third benefit period. In such documented cases, a face to face encounter which occurs within 2 days after admission will be considered to be timely. Additionally, for such documented exceptional cases, if the patient dies within 2 days of admission without a face to face encounter, a face to face encounter can be deemed as complete.

Recertifications that require a face-to-face encounter but which are missing the encounter are not complete. The statute requires a complete certification or recertification in order for Medicare to cover and pay for hospice services. Where the only reason the patient ceases to be eligible for the Medicare hospice benefit is the hospice's failure to meet the face-to-face requirement, Medicare would expect the hospice to discharge the patient from the Medicare hospice benefit, but to continue to care for the patient at its own expense until the required encounter occurs, enabling the hospice to re-establish Medicare eligibility. The hospice can re-admit the patient to the Medicare hospice benefit once the required encounter occurs, provided the patient continues to meet all of the eligibility requirements and the patient (or representative) files an election statement in accordance with CMS regulations.

The hospice must file written certification statements and retain them in the medical record. Hospice staff must make an appropriate entry in the patient's medical record as soon as they receive an oral certification.

These requirements also apply to individuals who had been previously discharged during a benefit period and are being recertified for hospice care.

20.2 - Election, Revocation, and Discharge

(Rev. 209, Issued: 05-08-15, Effective: 10-01-14, Implementation: 05-04-15)

20.2.1 - Hospice Election

(Rev. 246, Issued: 09-14-18, Effective: 12-17-18, Implementation: 12-17-18)

Each hospice designs and prints its election statement. The election statement must include the following items of information:

Identification of the particular hospice that will provide care to the individual;

The individual's or representative's (as applicable) acknowledgment that the individual has been given a full understanding of hospice care, particularly the palliative rather than curative nature of treatment;

The individual's or representative's (as applicable) acknowledgment that the individual understands that certain Medicare services are waived by the election;

The effective date of the election, which may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement. An individual may not designate an effective date that is retroactive;

The individual's designated attending physician (if any). Information identifying the attending physician recorded on the election statement should provide enough detail so that it is clear which physician, Nurse Practitioner (NP), *or Physician Assistant (PA)* was designated as the attending physician. This information should include, but is not limited to, the attending physician's full name, office