

2023 NAHC Regulatory Priorities



Since 1982, the National Association for Home Care & Hospice (NAHC) has been the leading association representing the interests of home health, hospice, and home care providers across the nation, including the home caregiving staff and the patients and families they serve. Our members are providers of all sizes and types – from small rural agencies to large national companies – including government-based providers, nonprofit organizations, systems-based entities, and public corporations.

Throughout the COVID-19 Public Health Emergency, home care and hospice providers stood ready and answered the call to provide high-quality care in the safest setting for the most vulnerable among us. However, over the past three years historical home care workforce shortages were amplified, new challenging payment methodologies were implemented, and oversight concerns emerged. These issues need attention from various governmental bodies to stabilize and protect integral benefits and services. NAHC and its members continue to be willing and engaged partners in addressing these challenges providing the expertise, insight, and real-world experience needed for the optimal outcome.

The NAHC Legislative and Regulatory Priorities for 2023 address issues related to workforce, home health, hospice, home care, and innovation. The priorities highlight the areas needed for Congressional and regulatory action to support and expand care in the home. The proposed priorities aim to improve access to high-quality care, reduce costs, and address workforce shortages to better meet the needs of patients and their families.

These priorities were identified to address previous actions that hold direct impact on the home care and hospice community, as well as forward-looking policies designed to position providers for stability and growth in the future through payment methodology reforms, workforce competition improvements, and benefit enhancements.

The Regulatory priorities identified in this document were selected from the larger [NAHC Regulatory Blueprint for Action](#) reviewed and approved by the NAHC Board of Directors.

WORKFORCE

Ensure Protections Against Workplace Violence

OSHA is in the preliminary phases of developing model standards that will protect employees from workplace violence in healthcare settings. However, OSHA applies standards broadly to industries and can set standards for healthcare settings that may not be reasonable for organizations that provide care in the home. Additionally, CMS should ensure surveyors are adequately applying the home health Conditions for Participation at §484.50(d)(5), which provides for discharges for cause related to behavior that is disruptive, abusive, or uncooperative.

Allow Physical Therapists (PT), And Speech Language Pathologists (SLPs) To Perform Initial and Comprehensive Assessment in All Therapy Cases

This policy change will be very beneficial in expanding HHA staff availability if therapists are permitted to conduct these assessments on patient admissions even when nursing services are also ordered. Currently, a therapist may conduct the initial and comprehensive assessment if therapy is the only discipline ordered. Therefore, there has been precedent for PTs and SLPs to conduct the initial and comprehensive assessments.

HOME HEALTH

Ensure The Development of a Fair and Equitable Patient Driven Groupings Model (PDGM)

CMS is permitted to apply a -4.6% behavior adjustment to the PDGM arbitrarily and presumptively, leading to unfair rate cuts. Additionally, agencies could be subject to significant rate cuts if reconciliation adjustments are applied without limits.

Ensure Fair and Accurate Payment Rate Adjustments for Home Health Agencies

In addition to the -4.6% behavior adjustment, CMS has applied a very flawed budget neutrality adjustment calculation to home health payment rates. The adjustment is more in line with an unauthorized rebasing of home health payment rates, resulting in billions of dollars in cuts. The significant cuts will lead to instability in the home health industry.

HOSPICE

Enact Hospice-specific Compliance Measures

In response to recent reports identifying quality of care and compliance concerns in select hospice programs, including the proliferation of potential problem providers in certain western states, Congress should enact a hospice-specific compliance package targeted to hospices that have demonstrated questionable practices.

Ensure the Development of Appropriate Policies for the Equitable and Consistent Implementation of Hospice Survey Reforms

As CMS works to implement hospice survey reforms, CMS must ensure there are sufficient resources available for these survey reforms and should work with hospice industry stakeholders to design and implement the reforms to achieve the greatest degree of effectiveness and efficiency. CMS must also ensure the policies and regulations implementing the reforms result in equitable and consistent survey oversight of hospices to support consistent high quality hospice care.

Implement the Informal Dispute Resolution (IDR) Process

When promulgating regulations to implement the hospice survey reforms enacted as part of the Consolidated Appropriations Act of 2021, including a variety of additional remedies that can be used to penalize hospice providers who are found to have condition-level deficiencies, CMS did not include an IDR process. Without an opportunity through the IDR process to clear condition-level deficiencies, hospices are not afforded due process, and this is not consistent with how enforcement remedies are structured in other programs where enforcement remedies are utilized, specifically home health and skilled nursing facilities.

Work with the Hospice Industry to Evaluate the Impact of Hospice Payment Reform; Reject Rebasing and Site-of-service Adjustment for NF Residents

Hospice has undergone numerous payment system changes in recent years. Given the scope of these changes, CMS should closely monitor the impact of payment reform changes on access and quality of hospice care and reject additional changes — such as rebasing of Routine Home Care rates or reducing payments for care provided to patients in nursing facilities — that could threaten access to hospice care.