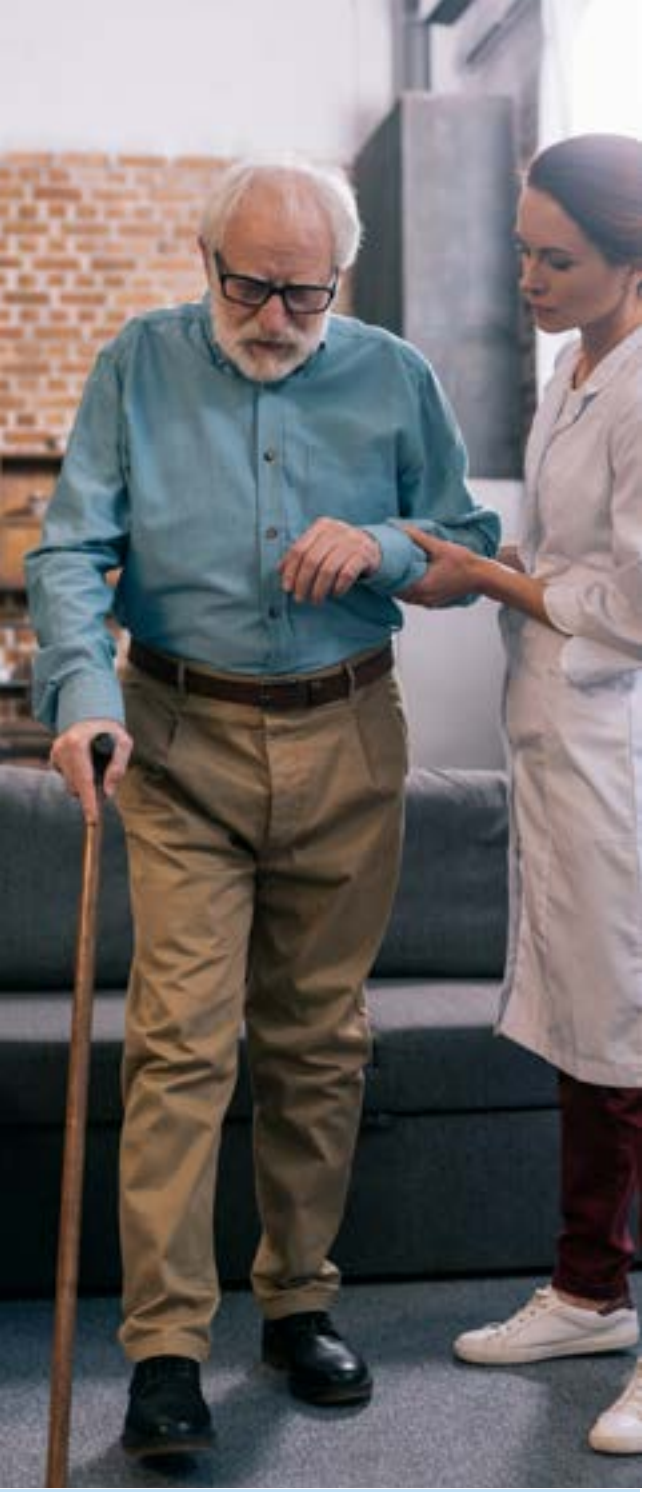
HOMECARE & HOSPICE
National Association for Home Care & Hospice

Hospice Election Statement and Addendum Toolkit



Introduction

In the fiscal year (FY) 2020 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements rule (final rule), the Centers for Medicare & Medicaid Services (CMS) finalized modifications to the hospice election statement content requirements at §418.24(b) and added a hospice election statement addendum requirement at §418.24(c) to increase coverage transparency for patients under a hospice election and to hold hospices accountable to providing all the items, services and drugs related to the terminal illness and related conditions, as required, under the Medicare hospice benefit. In the FY 2022 Hospice Wage Index and Payment Rate Update, Hospice Conditions of Participation Updates, Hospice and Home Health Quality Reporting Program Requirements final rule, CMS finalized regulatory text changes and clarifications at §418.24(b). The modifications and additions to the election statement increase coverage transparency for beneficiaries electing hospice care by notifying them of any items, services and/or drugs that will not be covered by the hospice because they are considered to be unrelated to the terminal illness and related conditions.

Coverage under the Medicare Hospice benefit requires that hospice services must not only be related to the terminal illness and related conditions but must also be reasonable and necessary for the palliation and management of the terminal illness and related conditions. Covered services include: Nursing care; physical therapy; occupational therapy; speech- language pathology therapy; medical social services; home health aide services (now called hospice aide services); physician services; homemaker services; medical supplies (including drugs and biologicals); medical appliances; counseling services (including dietary counseling); short- term inpatient care in a hospital, nursing facility, or hospice inpatient facility (including both respite care and procedures necessary for pain control and acute or chronic symptom management); continuous home care during periods of crisis, and only as necessary to maintain the terminally ill individual at home; and any other item or service which is specified in the plan of care and for which payment may otherwise be made under Medicare, in accordance with Title XVIII of the Act.

Medicare pays for hospice care on a per diem basis based on the level of care the patient is receiving. This per diem payment is to include all of the hospice services and items needed to manage the beneficiary's care, as required by section 1861(dd)(1) of the Act. The services covered under the Medicare hospice benefit are comprehensive such that, upon election, the individual waives all rights to Medicare payment for services related to the treatment of the individual's condition with respect to which a diagnosis of terminal illness has been made, except when provided by the designated hospice or attending physician. Items, services and

drugs determined by the hospice to be unrelated to the terminal illness and related conditions remain eligible for Medicare coverage if the beneficiary is eligible for the item, service and/or drug.

There are two coinsurance payments a Medicare hospice beneficiary is responsible for if the hospice charges such. It is important to note that the hospice is not required to charge for the coinsurance payments. One coinsurance payment is for drugs and biologicals and the other is for respite care. A beneficiary is liable for a coinsurance payment for each palliative drug and biological prescription furnished by the hospice while the individual is receiving routine home care or continuous home care. The amount of coinsurance for each prescription approximates 5 percent of the cost of the drug or biological to the hospice, determined in accordance with the drug copayment schedule established by the hospice, except that the amount of coinsurance for each prescription may not exceed $5.00. The amount of coinsurance for each respite care day is equal to 5 percent of the payment made by Medicare for a respite care day. The amount of the individual's coinsurance liability for respite care during a hospice coinsurance period may not exceed the inpatient hospital deductible applicable for the year in which the hospice coinsurance period began. The individual hospice coinsurance period begins on the first day an election is in effect for the beneficiary and ends with the close of the first period of 14 consecutive days on each of which an election is not in effect for the beneficiary.

Though hospices are responsible for providing all services needed for palliation and management of the terminal illness and related conditions, the **2008 Hospice Conditions of Participation final rule** states that while needs unrelated to the terminal illness and related conditions are not the responsibility of the hospice, the hospice may choose to furnish services for those needs regardless of responsibility. If a hospice does not choose to furnish services for those needs unrelated to the terminal illness and related conditions, the hospice is to document such needs and communicate and coordinate with those health care providers who are identified as caring for the unrelated needs, as set out at §418.56(e)(5). In the FY 2020 hospice proposed rule, CMS reiterated its long-standing position that services unrelated to the terminal illness and related conditions should be exceptional, unusual and rare given the comprehensive nature of the services covered under the Medicare hospice benefit.

CMS indicated in its comments in the FY 2020 hospice final rule that it has heard from beneficiaries and caregivers that they had to go outside of the Medicare hospice benefit to receive some items, services and drugs because they were determined to be unrelated to the terminal illness and related conditions, and these individuals were not aware that they may need to do this when they elected the Medicare hospice benefit. Additionally, CMS has had concerns about Medicare spending outside of the hospice benefit for many years. This includes expenditures under Part D, Part B and Part A. Consequently, CMS has implemented additional election statement requirements and the election statement addendum. Clarifying regulations text changes to the election statement addendum were made in the FY 2022 hospice final rule. This toolkit provides resources for hospices related to the requirements which became effective October 1, 2020 and were revised October 1, 2021. It includes:

- Hospice Election Statement and Addendum FAQs
- Hospice Election Statement Audit Tool
- Hospice Election Statement Addendum Audit Tool
- Hospice Election Statement and Election Statement Addendum Resources Page
- §418.24 (in full)

Frequently Asked Questions

Below are the frequently asked questions regarding the modified Medicare hospice election statement and the election statement addendum.

IMPLEMENTATION DATE, PATIENT APPLICABILITY and PENALTY

Q: Did you say agencies have one year to implement this?

A: The implementation date is October 1, 2020. The requirements were finalized in the FY2020 final hospice rule with an overall effective date for the provisions in this final rule going into effect on October 1, 2019. CMS, however, delayed the implementation of the modified election statement and election statement addendum by one year to October 1, 2020. Clarifying regulatory text changes were made in the FY 2022 hospice final rule with an effective date of October 1, 2021.

Q: What if a patient that was admitted 9/1/2020 asks for a non-covered item/medication on 10/15/20? We are not required to give them an addendum?

A: That is correct. These requirements of the modified election statement and the election statement addendum apply to patients electing hospice care on or after October 1, 2020. The addendum is considered part of the election and the patients who elected the Medicare hospice benefit prior to October 1, 2020 would have signed a different election statement that is not required to include the addendum.

Q: I thought there might be some sort of penalty after January 1, 2021. If they do not find an addendum or that it was offered? There would be a penalty if there was an addendum requested and it was not provided, and the penalty would begin October 1, 2020.

A: Per CMS, the condition of payment is met if the addendum was requested and there is evidence in the record that the hospice provided the addendum in the required timeframes. Patient signature is required unless the patient refuses (must be documented on the addendum) or the situation is one where the patient cannot sign due to death or live discharge. A signature is not required if a non-hospice provider requests the addendum.

Q: If a patient or representative requested an addendum, and then there were changes in medications, or services that are unrelated, do we need to send an update, or does the patient (or representative) need to request an update?

A: Once an addendum is requested by the patient or representative, any updates must be provided. The patient or representative does not need to specifically request an updated addendum when changes are made. 42 C.F.R. 418.24(c) states: "...If there are any changes to the content on the addendum during the course of hospice care, the hospice must update the addendum and provide these updates, in writing, to the individual (or representative)..."

ADDENDUM TIMEFRAME

Q: As we bring new patients on to hospice service, we need to collect info first and develop a plan of care in IDG. That will establish what is covered and what is not. At Start of Care, we really may not have much information on what is covered and what is not. So, in my mind, the SOC is a time to review the election, including the information that is added regarding families can ask for written information on what is covered and what is not.

A: Yes, the start of care (when the election is signed, not necessarily the effective date of election) is a time to review the election including the requirements of notifying the beneficiary/representative of their right to request the addendum. Actually, determining what is related and unrelated is likely not possible until the time when additional information is gathered as part of the completion of the

comprehensive assessment. Remember, if the election statement addendum is requested at the time of election, the completed addendum must be provided within 5 days from the date of the request (this could be after the 5 day comprehensive assessment timeframe).

Q: What if an order is received by the nursing home and not communicated with us until we visit the patient 4 days later? Is our addendum automatically late at that point?

A: An order received by a nursing home for a referral to hospice does not impact the timeline. If you are asking about providing the addendum throughout the course of care, this is a three-day timeframe and does not begin until the hospice receives the request. It is recommended that hospices serving patients in nursing homes or other facilities impress upon beneficiaries and their representatives that the request for the addendum needs to be made to the hospice not the facility staff.

ELECTION STATEMENT AND ADDENDUM FORM

Q: Our EMR system has an area that the clinician would document if the patient requested the addendum or not, but there is not a check box on our election statement. Would this be acceptable, or would it have to be on the written election statement given to the patient?

A: It is acceptable to document the request in the clinician assessment. A check box on the election statement is not required.

Q: You mentioned we may not want the second bullet on page 7 of the presentation "I was provided info on which items/services/drugs the hospice will cover and furnish upon my election to receive hospice care". I agree, but isn't that in the CMS requirements for what has to go on the election statement, or was that only on their sample and not truly a requirement?

A: This statement is not part of the requirements.

Q: Our current election statement has a statement regarding benefit periods such as 90, 90, unlimited 60-day periods as long as I meet requirement for benefit. Should this be added on our revised Election Statement?

A: This is not a federal requirement. It may be a state requirement or an accrediting organization standard. If it is not either of these, you may still choose to keep it in your election statement.

Q: Do you think a simple statement such as "I understand the purpose of hospice care and that the care and services is primarily palliative rather than curative." that comes from 418.24 is appropriate or would you advise being as detailed as the Hospice Election Statement Example that CMS put out? (that you have on your slides) "I acknowledge that I have been given a full explanation and have an understanding of the purpose of hospice care. Hospice care is to relieve pain and other symptoms related to my terminal illness and related conditions and such care will not be directed toward cure. The focus of hospice care is to provide comfort and support to both me and my family/caregivers."

A: The current requirement is "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". This requires an acknowledgement of being provided an understanding. Further guidance from CMS may be helpful to determine how much detail to include on the election statement.

Q: In the past we listed the patient's terminal diagnosis on the election statement so when we referenced items related and non-related they knew what the terminal DX was. Is this not needed now? It is not in the model election statement.

A: There is not a requirement to include the diagnosis(es) on the election statement.

Q: Is the expectation that the QIO contact information be provided as part of the election statement or the addendum? or both?

A: Per §418.24(b)(7) contact information for the QIO is required to be included in the election statement.

Q: Is it sufficient to receive a reply via email confirming the caregiver received the addendum? Or, must we have a true physical signature in the chart?

A: CMS is expecting that there be a signature.

Q: The CMS example of the Addendum did not list an area to explain unrelated diagnosis — are they going to update this because I thought it was required?

A: We do not believe CMS is going to update the example form, and hospices should accommodate for this in the development of their form.

Q: With EMRs listing up to 25 diagnoses, will Medicare consider all of those as related to the reason for hospice or how do they determine which ones are related to the terminal illness and what the hospice should be providing?

A: CMS is not going to look to a list of diagnoses and determine which ones are related or unrelated. CMS is requiring the hospice to indicate on the addendum, if requested, the individual's terminal illness and related conditions — a list of the conditions present on hospice admission (or upon plan of care update) and the associated items, services, and drugs not covered by the hospice because they have been determined by the hospice to be unrelated to the terminal illness and related condition.

Q: So, the addendum is potentially a partial list that won't always include all non-covered items, services, and drugs?

A: This is correct. Only those non-covered items that are unrelated would go on the addendum. There could also be instances where the hospice is not aware of an item, service or drug the patient is receiving/intends to receive. In these instances, the addendum would not list such item, service or drug.

Q: So, if an Addendum is requested at time of election, then it's in effect until the patient comes off service? Does it need to be updated and reissued for each new unrelated drug, service etc. that could happen throughout the care?

A: This is correct. The addendum is in effect until the hospice election is terminated (either by revocation or discharge) or is updated. CMS has further clarified that this includes situations where a patient transfers to another hospice. In these situations, the election has not terminated; therefore, the addendum is still effective. The receiving hospice may review the addendum provided by the transferring hospice to the patient, and if the receiving hospice determines there are additional unrelated conditions, items, services or drugs or those already listed will be covered by the receiving hospice, an updated addendum should be provided.

Q: If an addendum is not requested initially, but there is an update to unrelated, non-covered items, Hospices don't need to send an updated addendum, correct?

A: Correct. If the addendum was not requested an updated addendum does not need to be provided. In these situations, the hospice may want to remind the patient/representative that the addendum can be requested anytime throughout the course of care, but this is not required.

Q: For any hospice transfers where the legal representative requested the addendum, do we need to provide the list/addendum again If there were no service/drug changes?

A: No, an updated addendum only needs to be provided when there are updates to the unrelated non-covered conditions, items, services or drugs.

Q: What about those things that facilities (NH) staff order for patients or send out for that we are not informed about?

A: We are awaiting further clarification from CMS on this.

Q: Does the addendum have to say why a diagnosis is unrelated?

A: Yes, it should. What is written at 418.24(c)(6) indicates that a written clinical explanation is required for conditions, items, services, and drugs considered unrelated.

Q: How detailed does the clinical explanation have to be? And can you please discuss the "references to relevant clinical practice, policy or coverage guidelines"? What is the expectation here?

A: CMS does not specify how detailed the clinical explanation must be. The references to relevant clinical practice, policy or coverage guidelines might include reference to a particular study or article, a local or national coverage determination, or CMS guideline (or one that is from an accepted authority).

Q: Do you automatically do an addendum on every patient and put it in the record in case they request it?

A: You do not need to complete the addendum for every patient. It is only required to be completed upon request, but the hospice should have determined what is related/unrelated in terms of diagnoses, items, services, and drugs as part of its routine processes for every patient. Based on this, CMS' expectation is that the hospice will have this information for each patient readily available from the record should the request for an addendum be made.

Q: The requirements do not state that the hospice must ask the patient on admission (or any specific date) if they want this addendum. They only have time frames for when it is requested. In addition, the requirement does not state you must document whether it was or was not requested. Only that if it is requested it must be provided.

A: The requirement to offer the addendum to the patient is located in the list of requirements for the election statement. Here it is specified that the election statement must include the patient's right to request the addendum.

It is correct that the requirements of the addendum do not include documentation of whether it was or was not requested. This is arguably, however, a necessary process associated with the addendum. If there is not documentation of whether the addendum was requested by the patient or representative a reviewer (i.e. MAC, UPIC, RAC, etc.) may question, based on other documentation in the record, if it was requested. Therefore, it is strongly recommended that there be documentation of whether or not the addendum was requested.

Q: We understood that the addendum had to be provided if requested and indicate that there is nothing not covered at this time, if that is the case.

A: CMS responded to this situation in FY2021 hospice final rule stating: Additionally, if the beneficiary (or representative) requested the addendum but the hospice has determined that all conditions, items, services and drugs were related, and thereby covered by the hospice, the hospice could explain to the beneficiary (or representative) that it is furnishing all care or the hospice can provide the addendum noting that at the time of the request, the hospice has determined that there were no unrelated conditions, items, services or drugs.

PROCESSES RELATED TO THE ELECTION STATEMENT AND ADDENDUM

Q: If med is determined to be unreasonable and unnecessary (ex: specific inhalers), we notify the patient, and they go to a pharmacy and fill it anyway. Years later we get a bill from the Part D insurance — how do you handle this after the fact and is there a way to be proactive up front to prevent this?

A: The hospice could communicate to the pharmacy, if the hospice knows which pharmacy the patient will be utilizing, to notify the pharmacy that the hospice has determined the drug is unreasonable and unnecessary and should not be billed to Medicare. This could be added to the current voluntary prior authorization process for Part D drugs. The hospice could also voluntarily provide an Advance Beneficiary Notice (ABN) to the beneficiary. When an ABN is used as a voluntary notice, the beneficiary should not be asked to choose an option box or sign the notice. The provider or supplier is not required to adhere to the issuance guidelines for the mandatory notice when using the ABN for voluntary notification.

Q: For a dx of heart failure or CHF with chronic BP problems, I was informed to cover the BP maintenance drug. Other in-services I've attended said not to cover 'maintenance drugs'. So, it gets confusing. Is there a good course or something from CMS on what drugs are typically covered or not covered? For example, insulin needs to be

covered for any diagnosis of _____, etc. If patient has dementia, insulin is not covered even if patient has diabetes.

A: There are no courses or lists of items that are always covered/always non-covered because the decisions about this are to be based on the unique situation of the patient.

Q: If a patient requests a med such as Amitiza for narcotic induced constipation — hospice formulary suggests a med such as Lactulose. Could this be listed as a reason to not pay since we are offering a therapeutic substitution?

A: This may be a situation where the drug is non-covered because it is not reasonable and necessary even though it is related. For this example, we will assume that constipation is a related symptom. For such, the drug would not go on the addendum. Please see Table 9 below for examples of when to use the addendum and when to use an Advance Beneficiary Notice.

Q: Could you review again when to use ABN versus the addendum?

A: Please see the table below which explains the difference between the ABN and the election statement addendum.

Table 9: Differences between the Advance Beneficiary Notice (ABN) and the Hospice Election Statement Addendum

Type of Document	Purpose of Document	Timing to Provide to Beneficiary	When it is Used by Hospices
Advance Beneficiary Notice (ABN)	To transfer potential financial liability to the Medicare beneficiary in certain instances.	Prior to delivery of the item or service in question. The hospice must provide enough time for the beneficiary to make an informed decision on whether or not to receive the service or item in question and accept potential financial liability.	If there is an item or service that is usually paid for by Medicare Part A but may not be paid for in this particular case because it is not considered medically reasonable and necessary. If a patient is not terminally ill. If the level of hospice care is determined to be not reasonable or medically necessary.
Hospice Election Statement Addendum	To inform the beneficiary (or representative) upon request, of any items, services, or drugs the hospice will not be	If the adendum is requested at the time of hospice election, the hospice has 5 days from the effective date of the election to furnish this information in writing. If the addendum is requested during the course of hospice care (that is, after the effective date of the election), the hospice has 72 hours (or 3 days) from the date of the request to furnish this information in writing	Upon beneficiary request, if the hospice has determined that certain items, services, and drugs and unrelated to the terminal illness and related conditions and not covered by hospice. However, these items, services, and drugs may be covered under other Medicare benefits if coverage and eligibility requirements are met.

IMMEDIATE ADVOCOCACY and BFCC-QIO

Q: Will the QIO still be requesting the record be sent to them within the same business day as they do with other appeals?

A: The QIO may not need the medical record in the Immediate Advocacy process. This is a process in which the QIO is to facilitate resolution not to conduct a review.

Q: How do we confirm which person the BFCC-QIO has as the identified person for our agency and contact information is accurate for our agency?

A: For Livanta, we suggest calling the number provided for the state in which your organization is based. You can find all the Livanta regions, the phone number for the region, and the states within each region **here**. Kepro has a **webpage** dedicated to provider contact information.

DOCUMENTATION

Q: Please comment on process for medical director documentation of explanation of why unrelated. This would not be on the Addendum but is also an expectation.

A: The explanation that goes on the Addendum is one that should be in a layman's terms (in a language the patient understands), and what is documented in the medical record is not required to be in these terms. There should always be an explanation in the medical record of why a diagnosis/condition, item, service, drug is considered unrelated or if it is considered unreasonable/unnecessary. In the spirit of transparency, it is suggested that an explanation, if not required in writing, also be provided to the beneficiary.

Q: Our EMR system has an area that the clinician would document if the patient requested the addendum or not, but there is not a check box on our election statement. Would this be acceptable, or would it have to be on the written election statement given to the patient?

A: It is acceptable to document the request in the clinician assessment. A check box on the election statement is not required.

Q: Is it sufficient to receive a reply via email confirming the caregiver received the addendum? Or, must we have a true physical signature in the chart?

A: CMS is expecting that there be a signature.

Audit Tool

All Medicare beneficiaries choosing to receive hospice care must do so by electing such care. Per §418.24(a)(1) An individual who meets the **eligibility** requirement of **§ 418.20** may file an election statement with a particular **hospice**. If the individual is physically or mentally incapacitated, his or her **representative** (as defined in **§ 418.3**) may file the election statement. Below is a Medicare hospice election statement audit tool.

There are other hospice election statement requirements for the Medicaid hospice benefit and each state's Medicaid hospice requirements should be referenced for these. Additionally, there may be specific hospice election requirements under commercial insurance as well as applicable state-specific laws, rules, and regulations.

Medicare Hospice Election Statement Audit Tool

CMS Criteria	Comments
Identification that the patient is electing the Medicare Hospice Benefit.	
Identification of the particular hospice that will provide care to the patient	
The patient's or representative's (as applicable) acknowledgment that the patient has been given a full understanding of hospice care, ***particularly the palliative rather than curative nature of treatment***, as it relates to the individual's terminal illness and related conditions	
The patient's or representative's acknowledgment that the individual has been provided information on the hospice's coverage responsibility and that the individual understands that certain Medicare services are waived by the election* For elections beginning on or after October 1, 2020, this includes providing the individual with information indicating that services unrelated to the terminal illness and related conditions are exceptional and unusual and hospice should be providing virtually all care needed by the individual.	
The effective date of the election *May be the first day of hospice care or a later date but may be no earlier than the date of the election statement.*	
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, Physician Assistant (PA) or Nurse Practitioner (NP) was designated as the attending physician. This information should include, but is not limited to, the attending physician's full name, office address, NPI number, or any other detailed information to clearly identify the attending physician.*	
The individual's acknowledgment that the designated attending physician was the individual's or representative's choice	
For elections beginning on or after October 1, 2020, information on individual cost-sharing for hospice services	

CMS Criteria	Comments
For elections beginning on or after October 1, 2020, notification of the individual's (or representative's) right to receive an election statement addendum if there are conditions, items, services, and drugs the hospice has determined to be unrelated to the individual's terminal illness and related conditions and would not be covered by the hospice. *See NAHC's Hospice Election Statement Addendum audit tool for requirements*	
For elections beginning on or after October 1, 2020, information on the Beneficiary and Family Centered Care Quality Improvement Organization (BFCC-QIO), including the right to immediate advocacy and BFCC-QIO contact information	
The signature of the individual or representative**	
In the case of a transfer:	
Individual or representative has filed with the transferring hospice and the receiving hospice a statement that contains: • the name of the hospice from which the individual has received care • the name of the hospice from which they plan to receive care, and • the date the change is to be effective	
If there is a change in designated attending physician after the election of hospice care, there is a change in designated attending physician form that includes: Documentation of patient choice, effective date of change and individual or representative signature and date of signature	

*NAHC suggests that providers include a list of the waived services in the election statement. The waived services from the **Medicare Benefit Policy Manual (CMS Pub. 100-02), Ch. 9, §10 and §20.2** are as follows:

- Hospice care provided by a hospice other than the hospice designated by the individual (unless provided under arrangements made by the designated hospice); and
- Any Medicare services that are related to the treatment of the terminal condition for which hospice care was elected or an 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) if that physician or nurse practitioner 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.

**The only time someone other than the patient should sign the election statement is when the patient is not capable of making his or her own decisions. If this is the case, it should be documented and the person signing for the patient should be the patient's legal representative.

Addendum Audit Tool

All Medicare beneficiaries choosing to receive hospice care must do so by electing such care. For elections occurring on or after October 1, 2020, as part of the Medicare hospice election statement, the hospice must notify the patient of his/her right to receive an election statement addendum if there are conditions, items, services, and drugs the hospice has determined to be unrelated to the individual's terminal illness and related conditions and would not be covered by the hospice. The requirements for the addendum, which must be titled Patient Notification of Hospice Non-covered Items, Services and Drugs, are found at §418.24(c). Below is a Medicare hospice election statement addendum audit tool.

There may be other hospice election statement addendum requirements for the Medicaid hospice benefit and each state's Medicaid hospice requirements should be referenced for these. Additionally, there may be specific hospice election statement addendum requirements under commercial insurance as well as applicable state-specific laws, rules, and regulations.

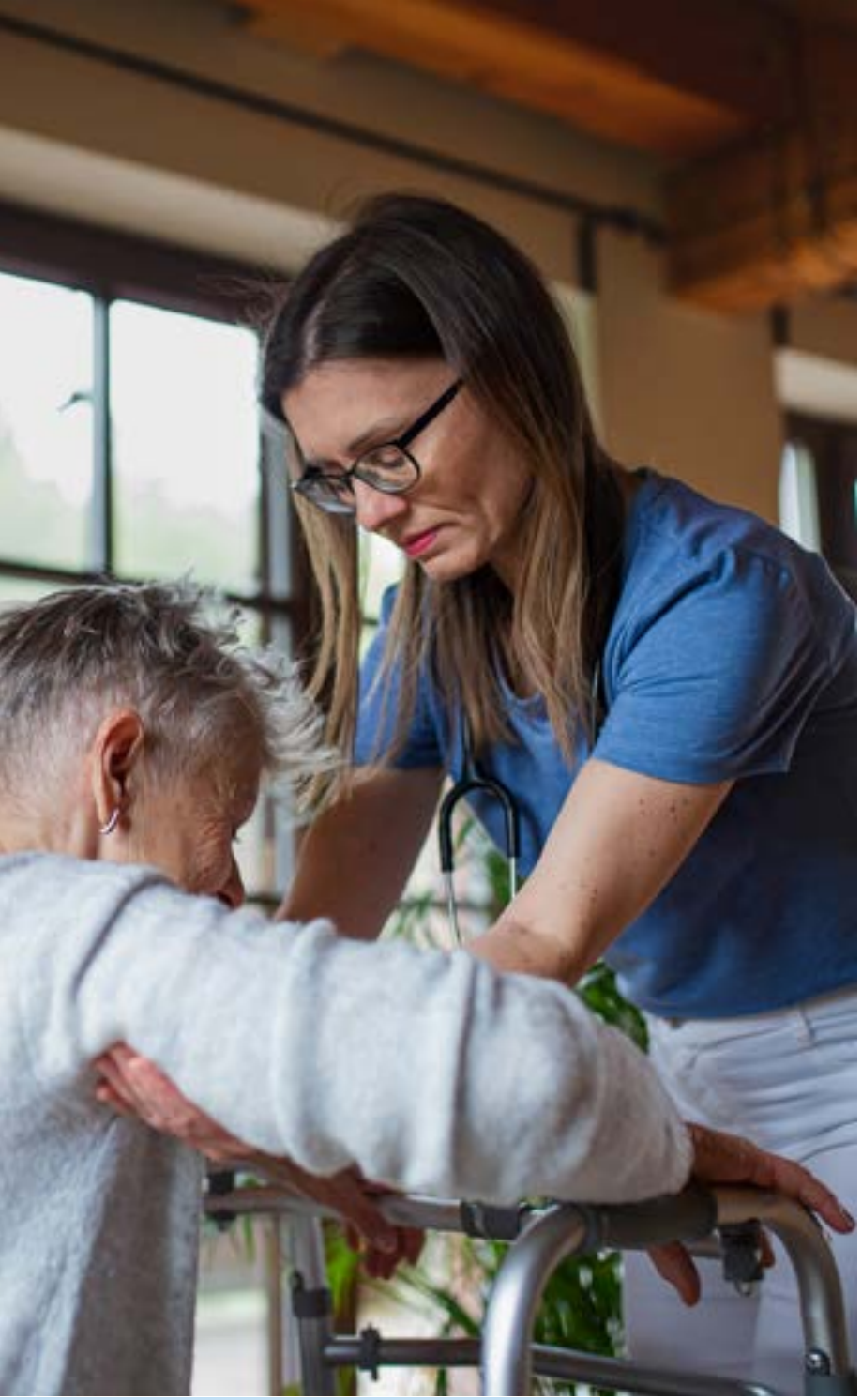
Medicare Hospice Election Statement Addendum "Patient Notification of Hospice Non-covered Items, Services and Drugs" Audit Tool

CMS Criteria	Comments
Addendum must be titled "Patient Notification of Hospice Non-Covered Items, Services, and Drugs."	
Name of the hospice.	
Individual's name and hospice medical record identifier	
Identification of the individual's terminal illness and related conditions	
A list of the individual's conditions present on hospice admission (or upon plan of care update) and the associated items, services, and drugs not covered by the hospice because they have been determined by the hospice to be unrelated to the terminal illness and related conditions.	
A written clinical explanation, in language the individual (or representative) can understand, as to why the identified conditions, items, services, and drugs are considered unrelated to the individual's terminal illness and related conditions and not needed for pain or symptom management.	
The clinical explanation is accompanied by a general statement that the decision as to whether or not conditions, items, services, and drugs are related is made for each patient and that the individual should share this clinical explanation with other health care providers from which they seek items, services, or drugs unrelated to their terminal illness and related conditions.	
References to any relevant clinical practice, policy, or coverage guidelines	
Information on the purpose of the addendum. The purpose of the addendum is to notify the individual (or representative), in writing, of those conditions, items, services, and drugs the hospice will not be covering because the hospice has determined they are unrelated to the individual's terminal illness and related conditions	

CMS Criteria	Comments
Information on the right to Immediate Advocacy The addendum must include language that immediate advocacy is available through the Medicare Beneficiary and Family Centered Care-Quality Improvement Organization (BFCC-QIO) if the individual (or representative) disagrees with the hospice's determination.	
Name and signature of the individual (or representative) and date signed, along with a statement that signing the addendum (or its updates) is only acknowledgement of receipt of the addendum (or its updates) and not necessarily the individual's (or representative's) agreement with the hospice's determinations.	
If the patient (or representative) refuses to sign the addendum, the hospice must document on the addendum the reason the addendum was not signed and the addendum would become part of the patient's medical record. If a non-hospice provider or Medicare contractor requests the addendum, the non-hospice provider or Medicare contractor are not required to sign the addendum.	
If the addendum is requested on the effective date of the initial hospice election (that is, the start of care date**) the addendum is provided within 5 days from the effective date of the election *If the beneficiary dies within the first 5 days from the start of hospice care and before the hospice is required to furnish the addendum, the addendum would not be required to be furnished after the patient has died*	
If the addendum is requested during the course of hospice care (that is, after the effective date of the hospice election), the hospice must provide this information, in writing, within 72 hours (that is, 3 days) of the request to the requesting individual (or representative), non-hospice provider, or Medicare contractor *If the beneficiary dies within 3 days from that request and before the hospice is required to furnish the addendum, the addendum would not be required to be furnished after the patient has died*	
If there are any changes to the content on the addendum during the course of hospice care, the hospice must update the addendum and provide these updates, in writing, to the individual (or representative) *CMS does not specify a timeframe in which the update must be provided.*	

*CMS considers the day of the request for the addendum as day 0. For example: Mr. Brown requests the election statement addendum on October 3rd, the effective date of his initial hospice election (that is, at the time of admission to hospice). The hospice must provide this information, in writing, to Mr. Brown within 5 days from the effective date of the hospice election. Therefore, the addendum would be required to be provided to Mr. Brown on or before October 8th.

**In situations where the patient has chosen a future effective date of election, the start of the timeframe begins on the effective date of the election which is day 0. For example: Mr. Brown requests the election statement addendum on October 1st, with the effective date of his election being October 3rd. The hospice must provide this information, in writing, to Mr. Brown within 5 days from the effective date of the hospice election. Therefore, the addendum would be required to be provided to Mr. Brown on or before October 8th.



Addendum Resources

FY 2020 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements
Proposed: **CMS 1714-P**
Final: **CMS 1714-F**

FY 2021 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements
Proposed: **CMS 1733-P**
Final: **CMS 1733-F**

42 C.F.R §418.24 – Election of Hospice Care
(includes election statement addendum)

CMS **Model Hospice Election Statement** – Modified March 2024

CMS **Model Hospice Election Statement Addendum** – Modified March 2024

NAHC Webinars:

The Final FY2021 Hospice Payment Rule and Election Statement/Addendum Requirements

The Modified Hospice Election Statement and New Election Statement Addendum – Part I

The Modified Hospice Election Statement and New Election Statement Addendum – Part II

§418.24 (in full)

The following is an excerpt from 42 C.F.R 418.24 – Election of Hospice Care

§418.24(b) Content of election statement. The election statement must include the following:

(1) Identification of the particular **hospice** and of the **attending physician** that will provide care to the individual. The individual or **representative** must acknowledge that the identified **attending physician** was his or her choice.

(2) The individual's or **representative's** acknowledgement that he or she has been given a full understanding of the palliative rather than curative nature of **hospice care**, as it relates to the individual's terminal illness and related conditions.

(3) Acknowledgement that the individual has been provided information on the **hospice's** coverage responsibility and that certain Medicare services, as set forth in **paragraph (e)** of this section, are waived by the election. For **Hospice** elections beginning on or after October 1, 2020, this would include providing the individual with information indicating that **services** unrelated to the terminal illness and related conditions are exceptional and unusual and **hospice** should be providing virtually all care needed by the individual who has elected **hospice**.

(4) 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.

(5) For **Hospice** elections beginning on or after October 1, 2020, the **Hospice** must provide information on individual cost-sharing for **hospice** services.

(6) For **Hospice** elections beginning on or after October 1, 2020, the **Hospice** must provide notification of the individual's (or **representative's**) right to receive an election statement addendum, as set forth in **paragraph (c)** of this section, if there are conditions, items, services, and drugs the **hospice** has determined to be unrelated to the individual's terminal illness and related conditions and would not be covered by the **hospice**.

(7) For **Hospice** elections beginning on or after October 1, 2020, the **Hospice** must provide information on the **Beneficiary** and Family Centered Care **Quality Improvement Organization** (BFCC-QIO), including the right to immediate advocacy and **BFCC-QIO** contact information.

(8) The signature of the individual or **representative**.

(c) Content of hospice election statement addendum. For hospice elections beginning on or after October 1, 2020, in the event that the hospice determines there are conditions, items, services, or drugs that are unrelated to the individual's terminal illness and related conditions, the individual (or representative), non-hospice providers furnishing such items, services, or drugs, or Medicare contractors may request a written list as an addendum to the election statement. The election statement addendum must include the following:

(1) The addendum must be titled "Patient Notification of Hospice Non-Covered Items, Services, and Drugs.

(2) Name of the hospice.

(3) Individual's name and hospice medical record identifier.

(4) Identification of the individual's terminal illness and related conditions.

(5) A list of the individual's conditions present on hospice admission (or upon plan of care update) and the associated items, services, and drugs not covered by the hospice because they have been determined by the hospice to be unrelated to the terminal illness and related conditions.

(6) A written clinical explanation, in language the individual (or representative) can understand, as to why the identified conditions, items, services, and drugs are considered unrelated to the individual's terminal illness and related conditions and not needed for pain or symptom management. This clinical explanation must be accompanied by a general statement that the decision as to whether or not conditions, items, services, and drugs are related is made for each patient and that the individual should share this clinical explanation with other health care providers from which they seek items, services, or drugs unrelated to their terminal illness and related conditions.

(7) References to any relevant clinical practice, policy, or coverage guidelines.

(8) Information on the following:

(i) Purpose of Addendum. The purpose of the addendum is to notify the individual (or representative), in writing, of those conditions, items, services, and drugs the **hospice** will not be covering because the **hospice** has determined they are unrelated to the individual's terminal illness and related conditions.

(ii) Right to Immediate Advocacy. The addendum must include language that immediate advocacy is available through the Medicare **Beneficiary** and Family Centered Care-Quality Improvement Organization (BFCC-QIO) if the individual (or representative) disagrees with the **hospice's** determination.

(9) Name and signature of the individual (or representative) and date signed, along with a statement that signing this addendum (or its updates) is only acknowledgement of receipt of the addendum (or its updates) and not necessarily the individual's (or **representative's**) agreement with the **hospice's** determinations. If the beneficiary (or representative) refuses to sign the addendum, the hospice must document on the addendum the reason the addendum was not signed and the addendum would become part of the patient's medical record. If a non-hospice provider or Medicare contractor requests the addendum, the non-hospice provider or Medicare contractor are not required to sign the addendum.

(10) Date the hospice furnished the addendum.

(d) Timeframes for the hospice election statement addendum.

(1) If the addendum is requested within the first 5 days of a hospice election (that is, in the first 5 days of the hospice election date), the hospice must provide this information, in writing, to the individual (or representative), non-hospice provider, or Medicare contractor within 5 days from the date of the request

(2) If the addendum is requested during the course of hospice care (that is, after the first 5 days of the hospice election date), the hospice must provide this information, in writing, within 3 days of the request to the requesting individual (or representative), non-hospice provider, or Medicare contractor.

(3) If there are any changes to the plan of care during the course of hospice care, the hospice must update the addendum and provide these updates, in writing, to the individual (or representative) in order to communicate these changes to the individual (or representative).

(4) If the individual dies, revokes, or is discharged within the required timeframe for furnishing the addendum (as outlined in paragraphs (d)(1) and (2) of this section, and before the hospice has furnished the addendum, the addendum would not be

required to be furnished to the individual (or representative). The hospice must note the reason the addendum was not furnished to the patient and the addendum would become part of the patient's medical record if the hospice has completed it at the time of discharge, revocation, or death.

(5) If the beneficiary dies, revokes, or is discharged prior to signing the addendum (as outlined in paragraphs (d)(1) and (2) of this section), the addendum would not be required to be signed in order for the hospice to receive payment. The hospice must note (on the addendum itself) the reason the addendum was not signed and the addendum would become part of the patient's medical record.

(e) Duration of election. An election to receive **hospice care** will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual -

(1) Remains in the care of a **hospice**;

(2) Does not revoke the election; and

(3) Is not discharged from the **hospice** under the provisions of **§ 418.26**.

(e) Waiver of other benefits. For the duration of an election of **hospice care**, an individual waives all rights to Medicare **payments** for the following services:

(1) **Hospice care** provided by a **hospice** other than the **hospice** designated by the individual (unless provided under arrangements made by the designated hospice).

(2) Any Medicare **services** that are related to the treatment of the terminal condition for which **hospice care** was elected or a related condition or that are equivalent to **hospice care** except for **services** -

(i Provided by the designated hospice:

(ii) Provided by another **hospice** under arrangements made by the designated **hospice**; and

(iii) Provided by the individual's **attending physician** if that **physician** is not an **employee** of the designated **hospice** or receiving compensation from the **hospice** for those services.

(f) Re-election of hospice benefits. If an election has been revoked in accordance with **§ 418.28**, the individual (or his or her **representative** if the individual is mentally or physically incapacitated) may at any time file an election, in accordance with this section, for any other election period that is still available to the individual.

(g) Changing the attending physician. To change the designated **attending physician**, the individual (or representative) must file a signed statement with the **hospice** that states that he or she is changing his or her **attending physician**.

(1) The statement must identify the new **attending physician**, and include the date the change is to be effective and the date signed by the individual (or representative).

(2) The individual (or representative) must acknowledge that the change in the **attending physician** is due to his or her choice.

(3) The effective date of the change in **attending physician** cannot be before the date the statement is signed.

HOMECARE & HOSPICE
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