



June 6, 2014

Marilyn Tavenner, Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Ms. Tavenner,

We are writing on behalf of health care providers throughout New Hampshire to express our frustrations and concerns about how CMS and its contractors interpret the physician face-to-face (F2F) encounter requirement for Medicare home health services. Our hope is that by sharing our concerns with you directly, CMS will have a better understanding of the unintended consequences that have resulted from the F2F regulatory requirements, and that your agency will begin to take action to mitigate the negative impacts.

First, we are *not* opposed to the face-to-face encounter requirement that is clearly stated in the Affordable Care Act (ACA.) Physicians oversee the plans of care for Medicare beneficiaries who receive skilled nursing and rehabilitative care at home, and their direct clinical interactions with patients inform the collaborative care that home care agencies provide.

The ACA simply **requires that the physician document that he or she, or a NPP working with the physician, has had a face-to-face encounter with the patient.** We believe that a simple attestation regarding the date of the encounter -- which could be included in the physician's certification of the patient's need for home health or in the plan of care -- should be sufficient to fulfill Congress's intent.

In our view, CMS's requirement of a "brief narrative" is redundant with the home health certification and documentation requirements that existed long before the ACA was enacted. We are frustrated by the additional regulations because physicians must spend extra time on redundant clinical

documentation, and home health agencies must spend countless hours contacting physicians and hospitals for F2F clarifications. **We are concerned that the administrative burden on all providers is hindering effective care transitions, delaying the provision of medically necessary home care services for Medicare beneficiaries, and limiting home care access to Medicare beneficiaries because physicians are becoming increasingly unwilling to make referrals.**

Here are specific concerns and consequences:

- Guidance provided by CMS since the implementation of F2F is confusing. With every new MLN, MAC webinar, or CMS Q & A, the F2F requirements have become more complex. MAC reviewers are inconsistent in their interpretation of what constitutes an acceptable F2F narrative, which results in further confusion for healthcare providers.
- In New England, NGS is focusing most of its educational resources on home care agencies and virtually nothing on the physicians who are tasked with the documentation.
- Since January 2014, New Hampshire's home health agencies have experienced more additional documentation requests (ADRs) and denials related to F2F compliance than ever before. In a recent survey conducted by the Home Care Association of New Hampshire, 19 home health agencies reported over 260 F2F ADRs from January 1 through March 31. So far, 22% of those ADRs resulted in denials, with most ADRs still pending. In nearly all these cases, the clinical necessity for home care was well-documented in the narrative and the face-to-face encounters clearly occurred. **The MACs are requiring more specific information in the narrative, even though the need for skilled care was already in the physician's certifying documents.**
- The appeals process for denials is burdensome and time-consuming – and all the while the agency is not reimbursed for necessary services already provided to the patient. Suspension of new Administrative Law Judge appeals means that agencies may forgo reimbursement for years.
- Home health agencies are forced to delay submission of hundreds claims while they seek clarifying documents from physicians.
- Many agencies have been forced to hire additional staff to collect and confirm F2F documentation from physicians and to appeal denials.

We respectfully request that CMS consider the following suggestions:

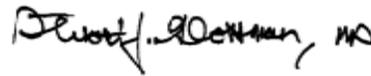
- **Order MACs to *suspend* all ADRs and denials related to F2F** until CMS and health care providers reach an agreement on reasonable documentation that meets the ACA's F2F requirement.
- **Eliminate the requirement for a "brief narrative"** as part of the F2F encounter documentation because the medical necessity and eligibility for home care services are already documented in the patients' records.
- **Eliminate the need for a F2F encounter when home health is ordered by a physician who has seen the patient in an acute care setting.** In these instances, the F2F encounter is obvious.
- **Increase education about F2F documentation for physicians**, as recommended by the OIG's recent report.
- **Develop a model CMS form or *simple* template for electronic medical records.** We have reviewed the recent electronic template recommended by CMS and believe it is unnecessarily detailed, complex and redundant.
- **Provide additional education to MACs** to improve consistency and reduce denials.

New Hampshire's health care providers are committed to providing appropriate care to Medicare beneficiaries. Home care is an important component of the healthcare continuum and is instrumental in improving the health status of seniors and reducing preventable hospitalizations. We welcome the opportunity to meet with CMS officials to discuss our concerns and frustrations about the home health F2F requirement. We want to work with you to develop viable solutions to the administrative challenges surrounding this issue. To follow-up on this request, please contact Gina Balkus, CEO, Home Care Association of New Hampshire, at 603-225-5597.

Respectfully,



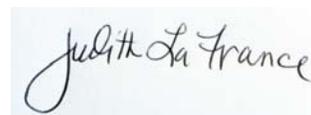
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cc: Senator Jeanne Shaheen
Senator Kelly Ayotte
Congresswoman Carol Shea-Porter
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