

**Managed Care Operations Memorandum
General Operations
MCOPS Memo # 05/2019-008**

Date: May 23, 2019

Subject: Retrospective Review of Hospice Services Provided by Managed Care Network Providers

To: Physical Health HealthChoices Managed Care Organizations (PH-MCOs) – Statewide

From: Karen Fickes, Director, Bureau of Program Integrity

Laurie Rock, Director, Bureau of Managed Care, Office of Medical Assistance Programs

Purpose:

To inform PH-MCOs of the Department of Human Services, Bureau of Program Integrity's (Department) most common findings identified through the retrospective review of hospice services and provide information to ensure compliance with state and federal regulations.

Background:

Hospice is a model for quality, compassionate, coordinated care at the end of life with the emphasis on pain and symptom management, as well as the psychosocial, spiritual and emotional needs of a terminally ill patient and their family members. The Department issued Medical Assistance (MA) Bulletin #17-02-02 in February 2002 to inform hospice providers and physicians enrolled in the MA Fee-for-Service Program and Managed Care Organizations, of retrospective review findings, associated MA violations and areas identified for improvement. In addition, the Department issued a Managed Care Operations Memorandum, dated June 12, 2017 outlining the processes for retrospective review of providers enrolled in the MA program whose services are paid for by a PH-MCO.

If the retrospective review reveals violations of MA regulations, the Department will request a corrective action plan (CAP) and/or apply appropriate sanctions, which may include restitution for the improper payments.

Legal Authority:

Providers who operate in the managed care plans' network must be enrolled in the Commonwealth's MA Program and, as such, are subject to retrospective review of utilization and payment in accordance with 55 Pa. Code §§ 1101.51(e), 1101.71(a) and Section V.O.4 of the PH-MCO HealthChoices agreements. Additional MA requirements for hospice providers are contained in 42 CFR §§418 and 456 and 55 Pa. Code §§ 1101 and 1130.

Discussion:

The most common MA violations identified during the Department's reviews of medical/fiscal records and encounters/claims for hospice providers and services related to the terminal illness, may be grouped into three general categories: general regulatory non-compliance issues, record keeping violations and quality of care concerns, as outlined below:

A. General Regulatory Non-compliance Issues

1. Medicare Certification. The hospice provider or service location is no longer Medicare certified. The hospice provider must be Medicare certified and continue to meet the Medicare conditions for participation to enroll as and remain a MA provider (55 Pa. Code § 1101.42(a)(c); and §§ 1130.51 and 1130.52(a)(1)(2). The PH-MCO must require that each of its network providers complies with all certification and licensing laws and regulations applicable to the professions or entity.
2. Other Party Medical Resources. The hospice provider is billing the MCO when the member has other insurance available, most often Medicare coverage. Other private or government health insurance benefits shall be utilized before billing MA (55 Pa. Code §§ 1101.31(a)(3), 1101.33(c), 1101.64(a) and 1101.75(a)(11)).
3. Inappropriate Hospice Admission. The medical records lack documentation to justify the admission to hospice care is reasonable and necessary for the palliation or management of a terminally ill recipient. Documentation does not establish the recipient's diagnosis qualifies as a terminal illness at the time of admission. The medical record must demonstrate that the services meet the accepted medical treatment standards and medical necessity requirements. In addition, in some instances, the medical record demonstrated that the member and/or their family were not ready to accept the hospice philosophy of care (55 Pa. Code §§ 1101.51(d)(e)(1)(x) and 1101.75(a)(7); and §§ 1130.21(4), 1130.61(1)).

4. Inadequate Management and Oversight of Hospice Related Services. A substantial number of hospice providers do not pay other providers for hospice-related services that are included in the MCO's hospice payments. Instead, the hospice-related services (e.g. pharmacy, laboratory, durable medical equipment, short term inpatient stay) were improperly billed directly by these providers to the MCO instead of to the hospice provider (55 Pa. Code §§ 1130.21(4), 1130.52(a)(b), 1130.61(1)(4) and 1130.62).
5. Inappropriate Revocation of or Discharge from Hospice Care. Only a beneficiary or the beneficiary's representative may seek revocation of hospice services. For example, the hospice provider may not revoke hospice care prior to an inpatient admission related to the terminal diagnosis; short term inpatient care is a hospice covered service (42 CFR §55 Pa. Code §§ 1130.42(a) and 1130.62(5)).

B. Record Keeping Violations

1. Certification of Terminal Illness Form. The forms have missing or incomplete information, misrepresent the effective date, follow Medicare regulations instead of Medicaid regulations or lack signatures by the attending physician and Medical Director (55 Pa. Code § 1101.51(e)(1)(x); and §§ 1130.21(3), 1130.22(1)(2) and 1130.61(5)).
2. Election of Hospice Care Form. The forms are incomplete or missing from the provider's records (55 Pa. Code § 1101.51(e)(1)(x); and § 1130.41(a) and 1130.61(2))
3. Subsequent Certification of Terminal Illness. The certification for each subsequent 60-day period of hospice coverage is incomplete, untimely or missing (55 Pa. Code § 1101.51(e)(1)(x); and §§ 1130.21(3) and 1130.22(3)).
4. General Inpatient Care versus Routine Care. Documentation is lacking to support that this advanced level of care is reasonable and necessary, therefore, exceeding the beneficiary's needs (55 Pa. Code §§ 1101.51(e)(1)(v)(vi)(x), 1101.75(a)(7)(8) and § 1130.61).
5. Incomplete Medical Records. Medical records lack documentation of history and physical examinations, results of studies, summaries of previous hospitalizations, attending physician progress notes, interdisciplinary team

notes and/or complete or updated care plans (55 Pa. Code §§ 1101.51(e)(1)(iv)-(x) and 1101.75(a)(7)).

6. Misrepresented Dates. Medical records contain altered dates and/or times on physician orders, progress notes, Certification of Terminal Illness forms or Election of Hospice/Subsequent Recertification forms. (55 a. Code §§ 1101.51(e)(1)(iii) and 1101.75(a)(8)).

C. Quality of Care Concerns

The Department's reviews indicated that hospice providers generally provided quality services to MA beneficiaries. However, some isolated issues were identified.

1. Hospice providers improperly relinquished provision of core hospice service and professional management responsibilities to the staff in the skilled nursing facility (55 Pa. Code §§ 1130.52(b), 1130.62 and 1130.63(d)).
2. The Hospice providers' records did not document that adequate bereavement counseling was offered or provided (55 Pa. Code § 1101.51(e); and §§ 1130.52(b) and 1130.63(c)).
3. The frequency of hospice visits for members in Skilled Nursing Facilities were inadequate to provide knowledge and support of the recipient and his/her family. Sometimes, no hospice visits were documented during the last week of life (55 Pa. Code § 1101.51(e); and §§ 1130.52(b), 1130.61 and 1130.62).
4. General Inpatient Care did not sufficiently address symptom management or clearly show the changes made and effect of such changes (55 Pa. Code § 1101.51(e)(1)(v)(vi)(x) and § 1130.61).

Questions or clarifications regarding this memorandum may be directed to Laurie Rock, Director, Bureau of Managed Care Operations, at (717) 772-6300.

Next Step:

N/A

Obsolete:

N/A

Attachment:

N/A