



June 26, 2018

Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services (CMS)  
Department of Health and Human Services  
200 Independence Ave., SW  
Washington, DC 20201

**Re: Medicare Program; FY 2019 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements**

Dear Administrator Verma,

The American Academy of PAs (AAPA), on behalf of the more than 123,000 PAs (physician assistants) throughout the United States, appreciates the opportunity to provide comments on the Medicare FY 2019 Hospice proposed rule. As indicated in this rule, Section 51006 of the Bipartisan Budget Act of 2018 expanded the definition of “attending physician” under hospice to include PAs. We believe this new designation will improve access to necessary hospice care for Medicare beneficiaries across the country.

Prior to the Bipartisan Budget Act of 2018, PAs were not permitted by the Medicare program to provide care that was directly related to a hospice patient’s terminal illness. Health professionals, such as physicians and nurse practitioners (NPs), were able to provide these services. This unfortunate omission of PAs from being able to practice in this capacity was detrimental to beneficiary access to care at what is arguably the most vulnerable and difficult time in a patient’s life. Also, this disparity can lead to Medicare beneficiaries who are under the care of a PA being forced to endure delays in care and must change to a different healthcare provider – a problem which is particularly urgent considering an aging population and a looming healthcare provider shortage.

In a time of worsening physician shortages, health professionals such as PAs will be increasingly relied upon to fill the access to care gaps. It is essential that PAs be permitted to practice to the full extent of their education and expertise. Patients electing the Medicare hospice benefit should not be denied the continuity of care of being able to be treated by a PA who in many cases has been the patient’s primary care giver prior to the diagnosis of a terminal illness. Provisions in the Bipartisan Budget Act of 2018 took an important step forward in addressing this obstacle to accessible, uninterrupted patient care.

AAPA supports this proposed rule formalizing the recent legislative change that will broaden the definition of hospice “attending physician” to include PAs. As a result, after January 1, 2019, PAs, like physicians and NPs, will be permitted to provide and manage hospice services, as well as establish and review a hospice patient’s plan of care. While AAPA views this as a significant step that will increase patient access and bolster continuity of care, we remain concerned regarding the inability of PAs to perform the face-to-face encounter after a patient has been under the hospice benefit for 180 days.

Prior to initial certification, a physician is required to certify terminal illness. This qualifies a patient for a 90-day hospice period. After 90 days, a physician medical director must recertify terminal illness. After 180 days have passed, prior to recertification by the medical director again (for 60 day periods from this point forward), a face-to-face encounter must occur. NPs, while not permitted to recertify terminal illness,

are permitted to conduct the face-to-face encounter to determine continued eligibility. As made explicit in the regulation, PAs are not given the ability to conduct this face-to-face encounter.

While the proposed rule is correct that the separate section of US Code that relates to the required face-to-face encounter was not modified by the 2018 Bipartisan Budget Act, the exclusion of PAs from being able to perform this service violates the spirit of the legislative change and maintains a discrepancy between PA and NP authority that is not grounded in medical qualification. The intent of adding PAs to the term “attending physician” was to expand the number of providers assisting the vulnerable hospice population, and to ensure greater continuity of care. The omission of PAs from being able to provide the face-to-face encounter falls short of both goals as hospice patients receiving care and care direction from PAs will be required to have another health professional, who the patient may not have interacted with, step in to provide the face-to-face encounter. AAPA will seek to find a solution to resolve this situation and we request that CMS explore any regulatory options to remedy this problem.

Again, AAPA appreciates the progress made with the inclusion of PAs in the definition of “attending physician.” While not as complete a change as we believe is necessary to maximize patient access to hospice services, AAPA considers this change to be a significant step forward. AAPA requests that CMS identify and update all relevant hospice policy manuals, provider billing instructions, transmittals and other materials to ensure PAs can fully function in the role of an attending physician for Medicare hospice patients.

Thank you for the opportunity to provide feedback on the 2019 Hospice Proposed Rule. AAPA welcomes further discussion with CMS regarding our position and comments. For any questions you may have in regard to our comments and recommendations, please do not hesitate to contact Michael Powe, AAPA Vice President of Reimbursement & Professional Advocacy, at 571-319-4345 or [michael@aapa.org](mailto:michael@aapa.org).

Sincerely,

A handwritten signature in black ink, appearing to read "L. Gail Curtis". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

L. Gail Curtis, MPAS, PA-C, DFAAPA  
President and Chair of the Board