



April 10, 2019

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

Re: Physician Assistants (PAs) Providing Hospice Services Under Medicare

Dear Administrator Verma,

The American Academy of PAs (AAPA), on behalf of the more than 131,000 PAs (physician assistants) throughout the United States, would like to bring to your attention an issue that is creating serious barriers to care for some of the Medicare program's most vulnerable beneficiaries – terminally ill hospice patients. More than a year after the enactment of legislation authorizing PAs to provide hospice care to Medicare patients, enforcement of an outdated CMS policy continues to prohibit PAs from ordering medication for hospice patients. CMS' stance on this issue is contrary to both the plain language of the statute and congressional intent, and is clearly within the agency's ability to quickly remedy.

We ask for your assistance in helping to quickly resolve this problem and make certain that an outdated, unnecessary regulatory restriction which has been superseded by a new law does not stand in the way of ensuring critically ill Medicare patients are able to receive quality, affordable access to coverage at a most critical time in their life. AAPA appreciated the opportunity to participate in the patients over paperwork initiative that you helped lead in relation to CMS. We also welcomed the ability to work with the Department of Health and Human Services and the White House as the Administration prepared the recent report titled [Reforming America's Healthcare System Through Choice and Competition](#). AAPA strongly endorses the finding in the report that advanced practice providers such as PAs are "highly trained professionals [that] can safely and effectively provide some of the same healthcare services as physicians, in addition to providing complementary services."

Until recently, Medicare policy was restrictive regarding the ability of PAs to provide hospice care. PAs were prohibited by statute from providing care that was directly related to a hospice patient's terminal illness. Comparable health professionals, physicians and nurse practitioners (NPs), could provide and be reimbursed for most hospice services acting as a hospice "attending physician." Changes in federal legislation (the Medicare Patient Access to Hospice Act as part of the Bipartisan Budget Act of 2018) and, subsequently, in CMS regulation, have broadened the Medicare definition of hospice "attending physician" to include PAs. As of January 1, 2019, PAs are permitted to provide, manage, and have hospice services reimbursed by Medicare.

Despite the statutory and regulatory changes authorizing PAs to serve as a hospice patient's attending physician, CMS' reliance on an outdated Condition of Participation (CoP), 42 CFR 418.106(b), prohibits PAs from carrying out an essential component of the attending physician role, which is ordering medications for hospice patients. The CoP only lists physicians and NPs as being able to order medication, but not PAs. It should be noted that PAs were

not authorized to be attending physicians when the CoP was written. Now that PAs are authorized as attending physicians for hospice there is no reason they should be excluded from being able to order medications. PAs are authorized to prescribe in all 50 states and the District of Columbia and have had been prescribing to Medicare beneficiaries outside of the hospice benefit for decades.

A provision in the Bipartisan Budget Act of 2018 authorizing PAs to be hospice attending physicians was signed into law on February 9, 2018. More than a year later the outdated CoP has not been set aside or updated. This ignores statutory language and congressional intent. AAPA requests that CMS take immediate action to align agency policy with the statutory language contained in the Medicare Patient Access to Hospice Act by authorizing PAs to prescribe medications to Medicare hospice patients and allow PAs to fulfill their patient responsibilities as attending physicians. This can be achieved by CMS stating that it will not enforce outdated hospice CoP language limiting PA prescribing for hospice patients because such a prohibition is in direct conflict with existing statutory language. AAPA also requests that CMS expeditiously reopen the Hospice CoPs in order to include PAs in official CoP language which identifies who is authorized to prescribe medication to Medicare hospice patients.

Thank you for the opportunity to share our concerns regarding restrictive language contained in Medicare's Hospice CoPs which inappropriately prohibits PAs from prescribing medications to terminally ill hospice patients. AAPA welcomes further discussion with CMS regarding our concerns. For any questions you may have regarding our comments please do not hesitate to contact Michael Powe, AAPA Vice President of Reimbursement & Professional Advocacy, at 571-319-4345 or michael@aapa.org.

Sincerely,

A handwritten signature in black ink, reading "Jonathan E. Sobel". The signature is fluid and cursive, with the first name being the most prominent.

Jonathan E. Sobel, DMSc, MBA, PA-C, DFAAPA, FAPACVS
President and Chair of the Board