

GENERAL INFORMATION

The CMS State Operations Manual (SOM) Appendix M - Guidance to Surveyors: Hospice serves as Interpretive Guidelines (IGs) to guide personnel conducting surveys of hospices and serve to clarify and/or explain the intent of the regulations. All surveyors are required to use them in assessing compliance with Federal requirements. The purpose of the protocols and guidelines is to direct the surveyor's attention to avenues of investigation in preparation for the survey, conducting the survey, and evaluating the survey findings.

The [HOSPICE Act](#) in the 2021 Consolidated Appropriations Act (CAA) makes important changes to the hospice survey and certification process including granting Medicare the flexibility to impose financial penalties and alternative remedies for serious violations instead of hospice program termination. Revisions to Hospice-Appendix M of the State Operations Manual and the Hospice Basic Surveyor Training were posted by CMS on January 23, 2023.

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[State Operations Manual Appendix M - Guidance to Surveyors: Hospice](#)

Revisions to Appendix M and complementary revisions to the CMS Hospice Basic Surveyor Training will equip surveyors from all surveying entities (State Agencies and Accrediting Organizations) to focus on the quality of care and facilitate consistency.

<https://qsep.cms.gov/ProvidersAndOthers/publictraining.aspx#h>

HIGHLIGHTED UPDATES TO THE SURVEY PROCESS

CMS refined the hospice survey process to focus on quality-of-care findings in the survey process. This approach prioritizes the surveyors' time and attention to those elements that impact the quality of care provided directly to the patient and family. Overall changes include but are not limited to:

- A refined hospice survey process with a focus on 4 core Conditions of Participation (CoPs)
- An enhanced Pre-Survey task
- Survey protocol task is updated to include a section dedicated to sampling strategy for record reviews and home visits
- A significant change in the hospice survey protocol is a two-phase approach to investigating the quality of care provided to hospice patients

PRE-SURVEY REVIEW

CMS enhanced the pre-survey task requirement for a surveyor to boost their understanding of the hospice's operations and provide a foundation for the onsite survey. A surveyor will complete offsite survey preparation that includes:

- a review of the most recent survey reports and hospice quality reporting scores
 - ▶ Medicare Care Compare/Hospice - The website presents collected data from the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey

- survey forms
 - ▶ Form CMS-417, Hospice Request for Certification in the Medicare Program
 - ▶ Form CMS-643, Hospice Survey and Deficiencies Report
 - ▶ Form CMS-807, Surveyor Notes Worksheet
- all complaint investigations since the last recertification survey to evaluate for patterns of deficient practice;
- complaints triaged at non-IJ/medium that should be investigated during this survey;
- change of ownership or additional multiple locations documents or information
- a search for media reports and other publicly available information about the hospice provider

SURVEY APPROACH

Hospice regulations contain 23 CoPs that hospices must comply with to participate in the Medicare programs. CMS organized the survey into two phases that focus on four core requirements and 19 associated CoPs.

The hospice final rule (73 FR 32088) specified a set of four CoPs as core requirements for hospice services, so CMS is referring back to this Preamble guidance to update the survey approach. The four core CoPs include:

1. §418.52 Condition of participation: Patient's rights.
2. §418.54 Condition of participation: Initial and comprehensive assessment of the patient
3. §418.56 Condition of participation: Interdisciplinary group, care planning, and coordination of services
4. §418.58 Condition of participation: Quality assessment and performance improvement

The survey protocol phases are completed sequentially. CMS has included substantial guidance updates for surveyors for the focus on the "four core" and associated CoPs. Information strategies are suggested in the survey protocol, but surveyor discretion and specific findings ultimately determine the direction of the investigation.

Phase 1 & 2 of the protocol

The phased approach to the survey provides a more specific investigative protocol based on the core requirements/quality of care concept. It also provides:

- more survey guidance on evaluating hospice patients who reside in SNF/NF and ICF/IID
- guidance on how to evaluate continuous home care as well as general inpatient care for pain and symptom management
- more guidance on how to evaluate bereavement counseling
- enhanced assessment for patient abuse and neglect and conflict of interest

Phase 1 findings regarding direct care services can inform Phase 2 in terms of pointing to potentially systemic issues/deficiencies.

PHASE I EXAMPLE

The surveyor will review 3 core CoPs and 6 associated CoPs

| CORE CoPs: | ASSOCIATED CoPs: |
|---|---|
| 1. §418.52 Condition of Participation: Patient's Rights | §418.60 Condition of participation: Infection Control |
| 2. §418.56 Condition of Participation: Interdisciplinary Group, Care Planning, and Coordination of Services | §418.76 Condition of Participation: Hospice Aide and Homemaker Services |
| 3. §418.54 Condition of Participation: Initial and Comprehensive Assessment of the Patient | §418.102 Condition of Participation: Medical Director |
| | §418.108 Condition of Participation: Short-term Inpatient Care |
| | §418.110 Condition of Participation: Hospices that Provide Inpatient Care Directly |
| | §418.112 Condition of Participation: Hospices that Provide Hospice Care to Residents of a SNF/NF or ICF/IID |

PHASE II EXAMPLE

The surveyor will review 1 core CoP and 13 associated CoPs

| CORE CoP: | ASSOCIATED CoPs: |
|--|--|
| §418.58 Condition of Participation: Quality Assessment and Performance Improvement | §418.62 Condition of Participation: Licensed Professional Services |
| | §418.64 Condition of Participation: Core Services |
| | §418.66 Condition of Participation: Nursing Services Waiver Of Requirement That Substantially All Nursing Services Be Routinely Provided Directly by a Hospice |
| | §418.70 Condition of Participation: Furnishing of Non-core Services |
| | §418.72 Condition of Participation: Physical Therapy (PT), Occupational Therapy (OT), and Speech-Language Pathology (SLP) |
| | §418.74 Waiver of Requirement-Physical Therapy, Occupational Therapy, Speech-Language Pathology and Dietary Counseling |
| | §418.78 Condition of participation: Volunteers |
| | §418.100 Condition of Participation: Organization and Administration of Services |
| | §418.104 Condition of participation: Clinical Records |
| | §418.106 Condition of Participation: Drugs and Biologicals, Medical Supplies, and Durable Medical Equipment |
| | § 418.113 Condition of participation: Emergency preparedness |
| | §418.114 Condition of Participation: Personnel Qualifications |
| | §418.116 Condition of Participation: Compliance with Federal, State, and Local Laws and Regulations Related to the Health and Safety of Patients |

SAMPLE SELECTION

The sample selection was added as a separate task to define the sample selection protocol more clearly, how to utilize quality or claims-based measures, and hospice compare data. Patient sample guidance includes instructions for:

- how to select samples
- multiple types of settings
- multiple locations

- multiple levels of care
- patients with a range of terminal diagnoses
- documents and information surveyors will use to select a sample
- assessing the minimum sample size for hospices of varying sizes
- home visits with record review
- how to select samples with only active or only closed records

The survey sample (see table below) determines the minimum clinical record sample size based on five categories:

1. size of the hospice
2. closed record reviews of patients who revoked the hospice benefit
3. closed records for bereavement
4. current patient home visit with record review
5. current patient record review only

| Number of unduplicated admissions (Past 12 months) | Closed Records (Live Discharges) | Closed Records (Bereavement Records) | Record Review-No Home Visit (RR-NHV) | Record Review with Home Visit (RR-HV) | Total Minimum Sample | Inclusion of records from multiple location(s) |
|--|----------------------------------|--------------------------------------|--------------------------------------|---------------------------------------|--------------------------------|---|
| <150 | 2 | 2 | 7 | 3 | 14 (+3 from previous guidance) | The number of records from each multiple location should be proportionate*. Includes at least one RR-NHV or RR-HV from each location Example below) |
| 150-750 | 2 | 2 | 0 | 4 | 19 (+6 from previous guidance) | |
| 751-1250 | 2 | 2 | 12 | 6 | 23 (+7 from previous guidance) | |
| 1251 or more | 2 | 2 | 4 | 6 | 27 (+7 from previous guidance) | |

**Hospices with < 150 admissions. if there are three locations and 50% of patients are from location A, 25% from location B, and 25% from location C, then, from the total minimum number of 14 records, 7 records should come from location A, 3-4 records from location B and 3-4 records from location C.*

If there are multiple locations, the surveyor should distribute the total minimum sample across the locations as most feasible.

An inpatient unit will be included as part of the overall site visit and clinical record review. If there is more than one inpatient unit, each one will be surveyed.

| NUMBER OF PATIENTS IN THE INPATIENT FACILITY | MINIMUM NUMBER IN THE INPATIENT SAMPLE |
|--|--|
| 1-4 | 2 |
| 5-16 | 3 |
| 17+ | 4 |

LTag Updates in Appendix M

CMS made changes to LTags in most of the CoPs. CoPs with NO LTag changes include:

- § 418.62 Condition of Participation: Licensed professional services.
- § 418.72 Condition of Participation: Physical therapy, occupational therapy, and speech-language pathology.
- § 418.114 Condition of Participation : Personnel qualifications

LTag consolidation

Most of the LTag changes involve the consolidation of the first 2 LTags in the CoP into one LTag. See the following example that shows the consolidation update and the deleted LTag in red in §418.52.

| LTag (Prior to update) | CoP/Standard | LTag (Updated) | CoP/Standard Update |
|------------------------|---|----------------|--|
| L500 | §418.52 Condition of Participation (CoP): Patient's rights | L500 | §418.52 Condition of Participation (CoP): Patient's rights The patient has the right to be informed of his or her rights, and the hospice must protect and promote the exercise of these rights. |
| L501 | The patient has the right to be informed of his or her rights, and the hospice must protect and promote the exercise of these rights. | L501 deleted | |

LTag regulatory number additions

Another change in Appendix M is that some of the LTag changes involve the addition of the regulatory numbers. See the following example that shows the regulatory number addition in red in §418.56.

| LTag (Prior to update) | CoP/Standard | LTag (Updated) | CoP/Standard Update |
|------------------------|--|----------------|--|
| L539 | (1) The hospice must designate an interdisciplinary group or groups composed of individuals who work together to meet the physical, medical, psychosocial, emotional, and spiritual needs of hospice patients and families facing terminal illness and bereavement. Interdisciplinary group members must provide the care and services offered by the hospice, and the group, in its entirety, must supervise the care and services. | L539 | L539 §418.56(a)(1) The hospice must designate an interdisciplinary group or groups composed of individuals who work together to meet the physical, medical, psychosocial, emotional, and spiritual needs of the hospice patients and families facing terminal illness and bereavement. Interdisciplinary group members must provide the care and services offered by the hospice, and the group, in its entirety, must supervise the care and services. |

LTag update to § 418.110 Condition of participation: Hospices that provide inpatient care directly

This Condition of Participation has been re-designated from Tag L719-L758 to L820-L862. L719-L758 is reserved for future use.

The regulatory text with accompanying interpretive guidance now appears as follows:

L820 (Rev. 210; Issued:02-03-23; Effective:02-03-23; Implementation:02-03-23) §418.110 Condition of participation: Hospices that provide inpatient care directly A hospice that provides inpatient care directly in its own facility must demonstrate compliance with all of the following standards:...

Provider Attention to Appendix M

Hospice providers should review the revised Appendix M document carefully. Organizations and their staff are responsible for understanding the content for compliance with all requirements, preparation for surveys, and quality of care delivery for patients and families.

RESOURCES

The current version of the SOM Appendix M is dated 2/3/2023

[State Operations Manual Appendix M - Guidance to Surveyors: Hospice](#)

Providers are also encouraged to review the Hospice Basic Surveyor Training. Public access to the training course is available in the CMS Quality, Safety & Education Portal (QSEP).

<https://qsep.cms.gov/ProvidersAndOthers/publictraining.aspx#h>

State Operations Manual - [Chapter 2 - The Certification Process \(PDF\)](#)

REFERENCES

Centers for Medicare and Medicaid Services. (2023, Jan 7). Revisions to hospice-appendix M of the state operations manual and the hospice basic surveyor training. Retrieved from <https://www.cms.gov/files/document/qso-23-08-hospice.pdf>

Centers for Medicare and Medicaid Services. (2023, Feb 3). State operations manual appendix M - guidance to surveyors: hospice. Retrieved from https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/som107ap_m_hospice.pdf

Centers for Medicare and Medicaid Services. (2020, Feb 20). State operations manual appendix M - guidance to surveyors: hospice. Retrieval is not available.