

## **CMS Gives Hospices Additional Time to Implement New Policies by Delaying Enforcement of New Face-To-Face Encounter Requirement**

The Centers for Medicare & Medicaid Services (CMS) has agreed to delay enforcement of the hospice face-to-face encounter requirement until April 1, 2011. On November 17, 2010 CMS published a proposed rule, to be effective January 1, 2011, that requires a hospice physician or nurse practitioner to perform a face-to-face encounter before a patient is certified for a third benefit period, i.e. more than 180 days of hospice care. This visit must be performed no more than thirty days before the patient is certified for the third benefit period and no more than 30 days before each subsequent certification thereafter.

Although CMS believes that most providers are aware of the change and are ready to implement this new rule immediately, CMS also concedes that some providers may need additional time to develop new internal policies and procedures. Accordingly, CMS has agreed to delay enforcement until April 1, 2011. However, CMS expects that all providers will have enacted new policies by that time and will already be fully documenting the new face-to-face encounters.

As a practical matter, providers should consider using a nurse practitioner to perform these visits as opposed to a physician. Nurse providers are more cost effective than a physician and can also play a role in the day to day operations of the hospice. Providers need to be aware that a nurse practitioner requires supervision from a physician, and should be supervised by the hospice physician or medical director who will be certifying that patient as terminal. Having the certifying physician supervise the nurse practitioner will assist the certifying physician to draft the certifying physician's narrative.

Moreover, providers should consider developing a separate spreadsheet for patients who are on hospice for at least 150 days. This spreadsheet should identify the initial thirty day window for a face-to-face encounter, and each subsequent 30 day window thereafter. The hospice should assign the duty of maintaining this calendar to somebody on the IDG team. This will allow the IDG team to closely monitor a patient's timeline, schedule face-to-face encounters at the appropriate intervals, and receive full payments on their claims.