

**§ 418.98**

laws. The persons, and each drug and biological they are authorized to administer, must be specified in the patient's plan of care.

**§ 418.98 Condition of participation—  
Short term inpatient care.**

Inpatient care must be available for pain control, symptom management and respite purposes, and must be provided in a participating Medicare or Medicaid facility.

(a) *Standard: Inpatient care for symptom control.* Inpatient care for pain control and symptom management must be provided in one of the following:

(1) A hospice that meets the condition of participation for providing inpatient care directly as specified in § 418.100.

(2) A hospital or an SNF that also meets the standards specified in § 418.100 (a) and (e) regarding 24-hour nursing service and patient areas.

(b) *Standard: Inpatient care for respite purposes.* Inpatient care for respite purposes must be provided by one of the following:

(1) A provider specified in paragraph (a) of this section.

(2) An ICF that also meets the standards specified in § 418.100 (a) and (e) regarding 24-hour nursing service and patient areas.

(c) *Standard: Inpatient care limitation.* The total number of inpatient days used by Medicare beneficiaries who elected hospice coverage in any 12-month period preceding a certification survey in a particular hospice may not exceed 20 percent of the total number of hospice days for this group of beneficiaries.

(d) *Standard: Exemption from limitation.* Until October 1, 1986, any hospice that began operation before January 1, 1975 is not subject to the limitation specified in paragraph (c).

[48 FR 56026, Dec. 16, 1983, as amended at 55 FR 50835, Dec. 11, 1990]

**§ 418.100 Condition of participation:  
Hospices that provide inpatient  
care directly.**

A hospice that provides inpatient care directly must comply with all of the following standards.

(a) *Standard: Twenty-four-hour nursing services.* (1) The facility provides 24-

hour nursing services which are sufficient to meet total nursing needs and which are in accordance with the patient plan of care. Each patient receives treatments, medications, and diet as prescribed, and is kept comfortable, clean, well-groomed, and protected from accident, injury, and infection.

(2) Each shift must include a registered nurse who provides direct patient care.

(b) *Standard: Disaster preparedness.* The hospice has an acceptable written plan, periodically rehearsed with staff, with procedures to be followed in the event of an internal or external disaster and for the care of casualties (patients and personnel) arising from such disasters.

(c) *Standard: Health and safety laws.* The hospice must meet all Federal, State, and local laws, regulations, and codes pertaining to health and safety, such as provisions regulating—

(1) Construction, maintenance, and equipment for the hospice;

(2) Sanitation;

(3) Communicable and reportable diseases; and

(4) Post mortem procedures.

(d) *Standard: Fire protection.* (1) Except as provided in paragraphs (d) (2) and (3) of this section, the hospice must meet the provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference)<sup>1</sup> that are applicable to hospices.

(2) In consideration of a recommendation by the State survey agency, HCFA may waive, for periods deemed appropriate, specific provisions of the Life Safety Code which, if rigidly applied would result in unreasonable hardship for the hospice, but only if the waiver would not adversely affect the health and safety of the patients.

(3) Any hospice that, on May 9, 1988, complies with the requirements of the 1981 edition of the Life Safety Code, with or without waivers, will be considered to be in compliance with this standard, as long as the hospice continues to remain in compliance with that edition of the Life Safety Code.

<sup>1</sup>See footnote to § 405.1134(a) of this chapter.

(4) Any facility of two or more stories that is not of fire resistive construction and is participating on the basis of a waiver of construction type or height, may not house blind, non-ambulatory, or physically handicapped patients above the street-level floor unless the facility—

(i) Is one of the following construction types (as defined in the Life Safety Code):

(A) Type II (1, 1, 1)—protected non-combustible.

(B) Fully sprinklered Type II (0, 0, 0)—non-combustible.

(C) Fully sprinklered Type III (2, 1, 1)—protected ordinary.

(D) Fully sprinklered Type V (1, 1, 1)—protected wood frame; or

(ii) Achieves a passing score on the Fire Safety Evaluation System (FSES).

(e) *Standard: Patient areas.* (1) The hospice must design and equip areas for the comfort and privacy of each patient and family members.

(2) The hospice must have—

(i) Physical space for private patient/family visiting;

(ii) Accommodations for family members to remain with the patient throughout the night;

(iii) Accommodations for family privacy after a patient's death; and

(iv) Decor which is homelike in design and function.

(3) Patients must be permitted to receive visitors at any hour, including small children.

(f) *Standard: Patient rooms and toilet facilities.* Patient rooms are designed and equipped for adequate nursing care and the comfort and privacy of patients.

(1) Each patient's room must—

(i) Be equipped with or conveniently located near toilet and bathing facilities;

(ii) Be at or above grade level;

(iii) Contain a suitable bed for each patient and other appropriate furniture;

(iv) Have closet space that provides security and privacy for clothing and personal belongings;

(v) Contain no more than four beds;

(vi) Measure at least 100 square feet for a single patient room or 80 square

feet for each patient for a multipatient room; and

(vii) Be equipped with a device for calling the staff member on duty.

(2) For an existing building, HCFA may waive the space and occupancy requirements of paragraphs (f)(1) (v) and (vi) of this section for as long as it is considered appropriate if it finds that—

(i) The requirements would result in unreasonable hardship on the hospice if strictly enforced; and

(ii) The waiver serves the particular needs of the patients and does not adversely affect their health and safety.

(g) *Standard: Bathroom facilities.* The hospice must—

(1) Provide an adequate supply of hot water at all times for patient use; and

(2) Have plumbing fixtures with control valves that automatically regulate the temperature of the hot water used by patients.

(h) *Standard: Linen.* The hospice has available at all times a quantity of linen essential for proper care and comfort of patients. Linens are handled, stored, processed, and transported in such a manner as to prevent the spread of infection.

(i) *Standard: Isolation areas.* The hospice must make provision for isolating patients with infectious diseases.

(j) *Standard: Meal service, menu planning, and supervision.* The hospice must—

(1) Serve at least three meals or their equivalent each day at regular times, with not more than 14 hours between a substantial evening meal and breakfast;

(2) Procure, store, prepare, distribute, and serve all food under sanitary conditions;

(3) Have a staff member trained or experienced in food management or nutrition who is responsible for—

(i) Planning menus that meet the nutritional needs of each patient, following the orders of the patient's physician and, to the extent medically possible, the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences (Recommended Dietary Allowances (9th ed., 1981) is available from the Printing and Publications Office, National Academy of Sciences, Washington, DC 20418); and

**§ 418.200**

**42 CFR Ch. IV (10–1–99 Edition)**

(ii) Supervising the meal preparation and service to ensure that the menu plan is followed; and

(4) If the hospice has patients who require medically prescribed special diets, have the menus for those patients planned by a professionally qualified dietitian and supervise the preparation and serving of meals to ensure that the patient accepts the special diet.

(k) *Standard: Pharmaceutical services.* The hospice provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals. Whether drugs and biologicals are obtained from community or institutional pharmacists or stocked by the facility, the facility is responsible for drugs and biologicals for its patients, insofar as they are covered under the program and for ensuring that pharmaceutical services are provided in accordance with accepted professional principles and appropriate Federal, State, and local laws. (See § 405.1124(g), (h), and (i) of this chapter.)

(1) *Licensed pharmacist.* The hospice must—

- (i) Employ a licensed pharmacist; or
- (ii) Have a formal agreement with a licensed pharmacist to advise the hospice on ordering, storage, administration, disposal, and recordkeeping of drugs and biologicals.

(2) *Orders for medications.* (i) A physician must order all medications for the patient.

(ii) If the medication order is verbal—

(A) The physician must give it only to a licensed nurse, pharmacist, or another physician; and

(B) The individual receiving the order must record and sign it immediately and have the prescribing physician sign it in a manner consistent with good medical practice.

(3) *Administering medications.* Medications are administered only by one of the following individuals:

- (i) A licensed nurse or physician.
- (ii) An employee who has completed a State-approved training program in medication administration.
- (iii) The patient if his or her attending physician has approved.

(4) *Control and accountability.* The pharmaceutical service has procedures

for control and accountability of all drugs and biologicals throughout the facility. Drugs are dispensed in compliance with Federal and State laws. Records of receipt and disposition of all controlled drugs are maintained in sufficient detail to enable an accurate reconciliation. The pharmacist determines that drug records are in order and that an account of all controlled drugs is maintained and reconciled.

(5) *Labeling of drugs and biologicals.* The labeling of drugs and biologicals is based on currently accepted professional principles, and includes the appropriate accessory and cautionary instructions, as well as the expiration date when applicable.

(6) *Storage.* In accordance with State and Federal laws, all drugs and biologicals are stored in locked compartments under proper temperature controls and only authorized personnel have access to the keys. Separately locked compartments are provided for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention & Control Act of 1970 and other drugs subject to abuse, except under single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected. An emergency medication kit is kept readily available.

(7) *Drug disposal.* Controlled drugs no longer needed by the patient are disposed of in compliance with State requirements. In the absence of State requirements, the pharmacist and a registered nurse dispose of the drugs and prepare a record of the disposal.

[48 FR 56026, Dec. 16, 1983; 48 FR 57282, Dec. 29, 1983; 49 FR 23010, June 1, 1984, as amended at 53 FR 11509, Apr. 7, 1988; 55 FR 50835, Dec. 11, 1990]

**Subpart F—Covered Services**

**§ 418.200 Requirements for coverage.**

To be covered, hospice services must meet the following requirements. They must be reasonable and necessary for the palliation or management of the terminal illness as well as related conditions. The individual must elect hospice care in accordance with § 418.24 and a plan of care must be established as set forth in § 418.58 before services