National Alliance for Care at Home

September 10, 2026

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RE: Request for Enforcement Discretion of Mandatory Hospice Election Statement Addendum

Dear Brian and Kelly:

We are writing about the new hospice requirements scheduled for implementation on October 1, 2026, concerning changes to the provision of the hospice election statement addendum to all Medicare beneficiaries. The Alliance supports the transparency objective of the changes. However, we have serious concerns about the ability of hospice providers, their Electronic Medical Record (EMR)/Electronic Health Record (EHR) vendors and Medicare Administrative Contractors (MACs) to fully operationalize the requirements in the short three weeks that remain before the implementation date. Therefore, we strongly urge CMS to exercise enforcement discretion for the mandatory election statement addendum requirements that take effect for hospice elections beginning on or after October 1, 2026.

While we recognize that the Centers for Medicare & Medicaid Services (CMS) has a strong commitment to implementing the modifications to the election statement addendum requirements finalized in the FY 2027 final hospice payment rate update rule, we believe the outstanding issues warrant modification of CMS' plans, and urge CMS to consider implementation of the requirements as scheduled but withhold imposition of enforcement penalties until such time that sub-regulatory guidance is provided and outstanding questions are clarified for hospice providers, EMR/EHR vendors, MACs, and other contractors.

Currently, the Medicare Benefit Policy Manual, Chapter 9, Section 20.2 has not been updated to reflect that the addendum is no longer furnished only upon request. The examples in this section are specific to requests for the addendum. We appreciate that CMS updated the model election statement and model election statement addendum in recent days. This resolved one component of the sub-regulatory guidance. There remain outstanding questions with significant operations implementation and medical review implications.

Revised § 418.24(d) states: "*If there are any changes to the plan of care during the course of hospice care that impact the addendum determinations, the hospice must update the addendum, within 3 days, with the contents described in paragraph (c) of this section, and provide these updates, in writing, to the individual (or representative), as well as update the addendum on file in order to communicate these changes to the individual (or representative), non- hospice providers, and Medicare contractors.*"

This moves the trigger for the 3-day clock from a request to another event that CMS has not defined. The request is a discrete, auditable event. Per the revised regulation, it appears that changes to the plan of care that impact the addendum determinations would be the new triggering event.

However, it is not typical for hospices to include unrelated items or services in the hospice plan of care as the item or service is not needed for the palliation and management of the terminal illness and related conditions. Nor does the information necessarily add value to the plan of care. For example, an appointment with a physician related to cataracts would, in many hospice situations, be unrelated to the terminal diagnosis and related conditions. Such an appointment would typically be mentioned in the medical record documentation (e.g. visit note), if the hospice is aware of it. It likely would not be included in the plan of care. How would a hospice or a MAC or other contractor determine when the clock for the 3-day timeframe begins for this type of situation? And how would it be handled if the hospice is not made aware of the appointment/visit until after it occurs? Or does this situation not necessitate an update to the addendum because the cataract appointment was not part of the plan of care?

These types of situations are not at all uncommon, and there are many similar scenarios and questions that need further guidance from CMS before the new requirement is enforced. The Alliance urges CMS to work with the hospice community to collect and respond to implementation and operational questions prior to enforcement, given the substantial penalty associated with any ambiguity and subjectivity in how these requirements will be enforced during medical review.

CMS states in the final rule that while a written addendum is required to be provided per § 418.24 a supplemental electronic/digital version is acceptable. This is causing significant confusion in the hospice community and for EMR/EHR vendors in this space. It is also confusing for any medical reviewer. For instance, electronic and hard copy versions of the addendum are both "written." Some beneficiaries/representatives prefer an electronic version of the addendum for a variety of reasons, such as having it available in one place and not having to worry about losing a hard

copy. Some prefer both hard copy and electronic versions, and some prefer only hard copy. All are "written" forms of the same document, just delivered in different methods and per the patient's request.

The changes made to § 418.24 impact the Medicare hospice election statement as well as the addendum. The Alliance appreciates that CMS updated both of these models recently. However, in the FY 2027 hospice payment rate update proposed and final rules, CMS did not estimate the burden involved with modifications to the Medicare hospice election statement itself, which must be made in response to the changes CMS finalized to the regulations at § 418.24(b)(6).

We strongly urge CMS to exercise enforcement discretion for the new requirements at § 418.24 until sub-regulatory guidance is available, outstanding questions about implementation and enforcement have been addressed, and additional rulemaking is completed. This approach would be consistent with CMS's implementation of the hospice face-to-face requirements. It would also allow CMS, the MACs, and other contractors to clarify the requirements and provide guidance to the hospice industry to ensure that all participants have a full understanding prior to imposing financial penalties.

Given the rapidly approaching effective date of the new regulations on October 1, 2026, we also ask that CMS expeditiously provide instructions to the MACs and public notice to hospices of any plans to exercise enforcement discretion.

We would be happy to provide additional information or answer any questions you may have.

Sincerely,

/s/

Katie Wehri
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National Alliance for Care at Home