

May 8, 2024

The Honorable Jason Smith
Chairman
Ways and Means Committee
U.S. House of Representatives

The Honorable Richard Neal
Ranking Member
Ways and Means Committee
U.S. House of Representatives

The Honorable David Schweikert
Member
Ways and Means Committee
U.S. House of Representatives

The Honorable Mike Thompson
Member
Ways and Means Committee
U.S. House of Representatives

Dear Chairman Smith, Ranking Member Neal, Mr. Schweikert, and Mr. Thompson:

The National Hospice and Palliative Care Organization (NHPCO) appreciates the opportunity to provide a letter of support for H.R. 8261, the “Preserving Telehealth, Hospital, and Ambulance Access Act”. **Specifically, we support Section 101 and Section 103 as they relate to the telehealth flexibility for the face-to-face (F2F) encounter prior to recertification of hospice eligibility.**

NHPCO is the nation’s largest and oldest membership organization for hospice providers and professionals who care for people affected by serious and life-limiting illness. NHPCO members represent more than 4,000 hospice and palliative care locations across the country and care for over two-thirds of Medicare beneficiaries served by hospice. In addition, NHPCO members employ thousands of professionals and volunteers.

Subsection f of Section 101 of Title 1, extends the ability for hospices to use telehealth to conduct the F2F encounter for recertification of hospice eligibility for an additional two years except in instances where the beneficiary is residing in an area subject to a moratorium on the enrollment of new hospices, the hospice is under a provisional period of enhanced oversight, or the encounter is being performed by a physician or nurse practitioner who is not enrolled in Medicare and does not have a valid opt-out affidavit on file.

The F2F encounter is a low-touch, administrative visit to collect clinical information in determining continued eligibility for hospice. Recertification decisions are broadly informed by the collective interdisciplinary team throughout the course of care delivery to the beneficiary. As this is not a care delivery visit, the F2F requirement can be successfully conducted via telehealth. Research has found “no statistically significant difference in reauthorization recommendations found between telehealth and in-person visits.”¹

This flexibility is especially beneficial for hospices caring for patients in rural and frontier areas as well as high-traffic urban locations. The physicians and nurse practitioners who are required to

¹ Moore SL, Portz JD, Santodomingo M, Elsbernd K, McHale M, Massone J. Using Telehealth for Hospice Reauthorization Visits: Results of a Quality Improvement Analysis. *J Pain Symptom Manage*. 2020 Sep;60(3):e22-e27. doi: 10.1016/j.jpainsymman.2020.06.002. Epub 2020 Jun 7. PMID: 32525082; PMCID: PMC7276118.

conduct the F2F encounter are best utilized in hospice by spending time delivering care to patients who need it most—those with uncontrolled pain or experiencing a symptom crisis. The F2F encounter, when required to occur in-person, is especially burdensome² and detracts from this goal with more time spent commuting in the car instead of serving patients in need.

In addition to supporting patients, families, and hospices providers, allowing the use of a virtual option to conduct the F2F encounter would not impose additional costs on the Medicare program, as there is no separate payment for the encounter. F2F encounters are covered under the current daily capitated payment structure of the Medicare Hospice Benefit; permitting them to be virtually performed is cost neutral.

NHPCO strongly supports the extension of the telehealth flexibility included in Section 3706 of the CARES Act (Pub. L. 116-136) and urges Congress to make this provision permanent.

NHPCO has long supported program integrity measures to root out bad and fraudulent actors from the Medicare Hospice Benefit and ensure beneficiary protections. We believe the program integrity measures included in this bill, as they related to the F2F provision, are reasonable and will not burden high-quality, mission-driven hospices. Indeed, we have been at the forefront of championing program integrity measures to safeguard the Medicare hospice benefit, ensuring that high-quality end-of-life care continues to be delivered in accordance with the highest standards.³

Section 103, of Title 1, requires the Centers of Medicare & Medicaid Services (CMS) to establish a modifier or code for the F2F encounter to indicate if the encounter was furnished through telehealth. In its 2022 report, the Medicare Payment Advisory Commission (MedPAC) formally recommended that the “Secretary should require that hospices report telehealth services on Medicare claims.”⁴ **NHPCO supports the collection of telehealth data for the F2F encounter.** We have included this support in official comments to CMS’ FY22, FY23, and FY24 Hospice Wage Index Proposed Rule and in other communications to Congress.

NHPCO appreciates your continued support of hospices and the patients and families our members serve. We encourage Congress to swiftly pass this legislation. We look forward to continuing to work together to reduce regulatory burdens on hospices, root out fraudulent providers, and expand access to hospice and palliative care. If you have any questions, please contact Logan Hoover, NHPCO’s Vice President of Policy and Government Relations, at lhoover@nhpco.org.

Sincerely,
/s/

Ben Marcantonio
Interim CEO
National Hospice and Palliative Care Organization

² Harrold J, Harris P, Green D, Craig T, Casarett DJ. Effect of the Medicare face-to-face visit requirement on hospice utilization. *J Palliat Med*. 2013 Feb;16(2):163-6. doi: 10.1089/jpm.2012.0349. Epub 2013 Jan 11. PMID: 23308378; PMCID: PMC3569924

³ <https://www.nhpco.org/program-integrity-advocacy>

⁴ https://www.medpac.gov/wp-content/uploads/2022/03/Mar22_MedPAC_ReportToCongress_Ch11_SEC.pdf