

CY 2024 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B Finalized

To: NHPCO Provider and State Members
From: NHPCO Regulatory & Quality Teams
Date: November 9, 2023

Summary at a Glance

The [calendar year \(CY\) 2024 Revisions to Payment Policies Under the Physician Fee Schedule \(Physician Fee Schedule\) and Other Revisions to Medicare Part B](#) final rule was posted for public inspection at the Federal Register on November 2, 2023. The Centers for Medicare & Medicaid Services (CMS) has released a [fact sheet](#) accompanying the final rule.

Key sections include:

- **Hospice Interdisciplinary Group.** CMS is implementing provisions of the Consolidated Appropriations Act, 2023, to include mental health counselors (MHCs) and marriage and family therapists (MFTs) as part of the hospice interdisciplinary group (IDG). CMS is not finalizing its proposal that the inclusion of social worker, MFT, or MHC on the IDG must be determined “based on the needs and preferences of the patient.” This means that hospices will have flexibility to determine which disciplines will serve on the IDG. CMS expects to release additional guidance regarding the inclusion of these disciplines on the IDG following publication of this final rule.
- **Principal Illness Navigation (PIN) Services.** CMS is finalizing new coding for PIN services beginning in 2024. These services are intended to assist Medicare beneficiaries with high-risk conditions with clinical service and support navigation.
- **Quality Measures.** CMS is finalizing two quality measures as proposed:
 - A.2. - Ambulatory Palliative Care Patients’ Experience of Feeling Heard and Understood
 - A.6 - Preventive Care and Wellness (composite)

CMS has posted a [Frequently Asked Questions \(FAQs\) document](#) on adding MFTs and MHCs to the Medicare benefit. CMS will update this FAQ following the release of this final rule. NHPCO is also in the process of putting together an FAQ on hospice MFT and MHC considerations and will have more to share soon. Any questions can be directed to regulatory@nhpco.org with ‘CY 2024 Physician Fee Schedule’ in the subject line.

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NHPCO Analysis

Hospice Interdisciplinary Group

The inclusion of marriage and family therapists (MFTs) and mental health counselors (MHCs) on the hospice IDG was authorized as a part of the Consolidated Appropriations Act, 2023 (CAA 2023). Specifically, the CAA 2023 amended section 1861(dd)(2)(B)(i)(III) of the Social Security Act to include MFTs and MHCs with social workers (SWs) on the hospice interdisciplinary group (IDG). This final rule implements provisions of the CAA 2023 to enable hospices to include one SW, one MFT, or one MHC on the hospice IDG.

Background

Prior to the enactment of the CAA 2023, there existed no separate statutory Medicare benefit category for MFT and MHC professional services. The statute established payment under Medicare Part B for services provided by MFTs and MHCs, and also allowed these professionals to serve as members of the hospice IDG and provide these services to beneficiaries under the hospice benefit. ***However, billing of MFT and MHC professional services under Medicare Part B does not apply to hospices, which means an MFT or MHC may not bill Medicare B for their services when providing services for a Medicare beneficiary receiving hospice care.***

CMS proposed to implement the inclusion of the MFT and MHC on the Hospice IDG through the [CY 2024 Physician Fee Schedule](#) proposed rule. Specifically, the agency proposed that hospices must include a SW, MFT, or MHC on the IDG “depending on the preferences and needs of the patient.” In other words, while CMS proposed that hospices would only need to have one of these professionals on the IDG, the agency suggested that hospices would need to have access to all three professional disciplines depending on the preferences and needs of hospice patients.

Proposed Regulation

§ 418.56 Condition of participation: Interdisciplinary group, care planning, and coordination of services.

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(a) * * *

(1) * * *

(iii) A social worker, marriage and family therapist, or a mental health counselor, depending on the preferences and needs of the patient.

Final Rule

CMS finalizes the inclusion of MFTs and MHCs on the hospice IDG beginning January 1, 2024 with one change. Consistent with NHPCO’s recommendation, CMS finalizes this proposal without the requirement that the determination of whether a SW, MFT, or MHC on the IDG must depend upon the preferences and needs of the patient. This means hospices will have flexibility to choose which of these professionals to serve on the IDG, and do not need to include all three.

CMS also clarifies that MFTs and MHCs may not provide only medical social services, which can only be performed by a qualified SW under a physician’s direction. Similar to SWs, an MFT or MHC may accompany a hospice nurse to complete a patient’s initial assessment, but is not required to do so.

As MFTs and MHCs provide counseling service, a core service, hospices must also hire MFTs and MHCs as direct employees, except in extraordinary and non-routine circumstances.

Final Regulation

§ 418.56 Condition of participation: Interdisciplinary group, care planning, and coordination of services.

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(a) * * *

(1) * * *

(iii) *A social worker, marriage and family therapist, or a mental health counselor.*

In this final rule, CMS reiterates the importance for the hospice IDG to continue to consider patients’ assessed needs and expects hospices to consider a patient’s needs and preferences during the care planning process and provide appropriate services to meet those needs. Accordingly, CMS expects hospices’ “system of communication” would address how information is communicated and shared during IDG meetings to ensure the IDG receives patient care information from each discipline based on the hospice’s policies.

Definitions¹

- **Marriage and Family Therapist.** Defined as an individual who –
 - (1) Possesses a master's or doctor's degree which qualifies for licensure or certification as a marriage and family therapist pursuant to state law of the state in which such individual furnishes the services defined as marriage and family therapist services;
 - (2) After obtaining such degree, has performed at least two years or 3,000 hours of post master’s degree clinical supervised experience in marriage and family therapy in an appropriate setting such as a hospital, SNF, private practice, or clinic; and
 - (3) Is licensed or certified as a marriage and family therapist by the state in which the services are performed.

- **Mental Health Counselor.** Defined as an individual who –
 - (1) Possesses a master's or doctor's degree which qualifies for licensure or certification as a mental health counselor, clinical professional counselor, professional counselor under the State law of the State in which such individual furnishes the services defined as mental health counselor services;
 - (2) After obtaining such a degree, has performed at least two years or 3,000 hours of post master’s degree clinical supervised experience in mental health counseling in an appropriate setting such as a hospital, SNF, private practice, or clinic; and

¹ See pages 2084 – 2085 of the unpublished final rule.

(3) Is licensed or certified as a mental health counselor, clinical professional counselor, professional counselor by the state in which the services are performed.

- **Marriage and Family Therapist Services.** Defined as “services furnished by a marriage and family therapist (as defined in paragraph (a) of this section) for the diagnosis and treatment of mental illnesses (other than services furnished to an inpatient of a hospital), which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are furnished. The services must be of a type that would be covered if they were furnished by a physician or as an incident to a physician's professional service and must meet the requirements of this section”²
- **Mental Health Counselor Services.** Defined as “services furnished by a mental health counselor (as defined in paragraph (a) of this section) for the diagnosis and treatment of mental illnesses (other than services furnished to an inpatient of a hospital), which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are furnished. The services must be of a type that would be covered if they were furnished by a physician or as an incident to a physician's professional service and must meet the requirements of this section”³

Effective Date and Implementation

CMS will implement these provisions beginning January 1, 2024, as proposed.

² Subject to certain exceptions. See pages 2084 – 2085 of the unpublished final rule.

³ Subject to certain exceptions. See pages 2086 – 2087 of the unpublished final rule.