Survey Process and Plans of Correction Overview

Kimberly Skehan, RN, MSN
VP of Accreditation
Community Health Accreditation Partner (CHAP)
kim.skehan@chapinc.org

Session Objectives

- Provide an overview of updated Medicare survey processes, regulatory updates applicable to Hospice surveys, and the difference between Condition Level and Standard-Level Deficiencies.
- Describe the process for post survey follow up and the components and timeline for completion of the plan of correction.
- Describe hospice staff and management involvement and roles in survey management, the implementation of a plan of correction and ensuring readiness for future Medicare hospice surveys.
- Q&As

CMS Survey Process Overview

Medicare Survey Types

- Initial Surveys
- Standard Surveys (Recertification)
  - Every 36 months at minimum
- State Survey vs Deemed Status Accreditation Organization (AO) Survey:
  - Accreditation Commission for Health Care (ACHC)
  - Community Health Accreditation Partner (CHAP)
  - Joint Commission (TJC)
- Complaint Survey
- Post-Survey Revisit
- CHOW/CHOL
- Direct Observation Validation (DOV) Survey for Deemed HH and Hospice Agencies

NOTE: All CMS surveys are unannounced

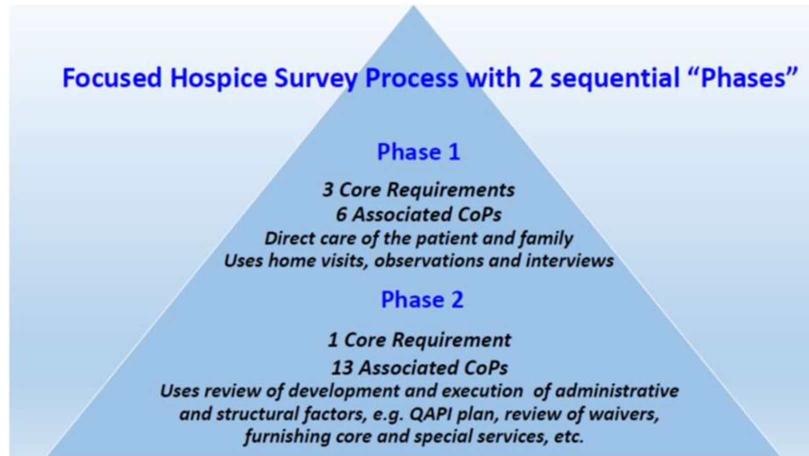
CMS State Operations Manual Appendix M - Hospice

- Recertification Survey of a Participating Hospice
  - Surveyor verifies compliance with all regulatory requirements with CoPs 418.52-418.116.
    - Hospice inpatient facilities surveyed in accordance with 418.110
  - Surveys conducted at multiple locations especially if additional locations added since last survey, and/or ADS census is higher than parent location
  - Visit all locations during the survey if possible
- Providers with multiple service lines/CCNs are surveyed separately but may have similar issues identified (i.e., Governance, QAPI)
- Deficiencies found at any location are applicable to the entire hospice

CMS State Operations Manual Appendix M - Hospice

- Appendix M-Guidance to Surveyors: Hospice: http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_m_hospice.pdf
- Incorporates changes made in surveyor training and survey process in HOSPICE Act
- Incorporates 1135 waivers that were made permanent
- Increased pre-survey preparation
- Focus on quality of care with 4 core hospice Conditions of Participation
- Increased focus on reporting mistreatment and all types of abuse
- **NO change to conditions of participation**
- All CoPs surveyed equally

Revised Hospice Survey Process with 2 Phases



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Hospice Survey Phase 1 Core CoPs

Phase 1 includes three core Conditions of Participation and 6 associated CoPs:

- §418.52 Patient Rights
- §418.54 Initial and comprehensive assessment of the patient
- §418.56 Interdisciplinary Group, care planning, and coordination of services

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Hospice Survey Phase 1 Associated CoPs

- §418.60 Condition of participation: Infection control
- §418.76 Condition of participation: Hospice aide and homemaker services
- §418.102 Condition of participation: Medical director
- §418.108 Condition of participation: Short-term inpatient care
- §418.110 Condition of participation: Hospices that provide inpatient care directly
- §418.112 Condition of participation: Hospices that provide hospice care to residents of a SNF/NF or ICF/IID

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Hospice Survey Phase 2 Core CoP

Phase 2 includes one core Condition of Participation, with 13 associated CoPs:

- §418.58 Condition of participation: Quality assessment and performance improvement.

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Hospice Survey Phase 2 Associated CoPs

§418.62	Licensed professional services.
§418.64	Core services.
§418.66	Nursing services—Waiver of requirement that substantially all nursing services be routinely provided directly by a hospice.
§418.70	Furnishing of non-core services.
§418.72	Physical therapy, occupational therapy, and speech-language pathology.
§418.74	Physical therapy, occupational therapy, speech-language pathology, and dietary counseling.
§418.78	Volunteers.

§418.100	Organization and administration of services.
§418.104	Clinical records.
§418.106	Drugs and biologicals, medical supplies, and durable medical equipment.
§418.113	Emergency preparedness.
§418.114	Personnel qualifications.
§418.116	Compliance with Federal, State, and local laws and regulations related to the health and safety of patients.

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- **The Survey Focus:**
  - Patient outcomes
  - Implementation of requirements
  - Provision of hospice services
- **Surveyor addresses CoPs in the most efficient manner possible**
- **Surveyor considers the inter-relatedness of the regulations while evaluating compliance through:**
  - Observation
  - Patient/Family/Staff Interviews
  - Home Visits
  - Record Reviews (clinical and personnel records)
  - Other documentation (i.e. policies, QAPI, EP, Governing Body Minutes, Contracts, IDG Communication, Personnel Files, etc.)

12 Leading Person-Centered Care NHPCO

CMS Appendix M: Surveyor Tasks

- Task 1 Pre-Survey Preparation
  - Background information/CMS survey-related forms/changes/complaint investigations/HQRP/QCOR and publicly available information
- Task 2 Entrance Conference
- Task 3 Sample Selection
- Task 4 Information Gathering—Phase 1 & Phase 2
- Task 5 Preliminary Decision Making and Analysis of Findings
- Task 6 Exit Conference
- Task 7 Post-Survey Activities

Task 4-Information Gathering

CMS states that for Phase 1 and Phase 2 components of the survey, the information gathering will include:

- Provide a more specific investigative protocol based on the core requirements/quality of care concept;
  - Task 4 provides detailed guidance related to home visits, document review and interview.
- Specify inpatient hospice survey procedures;
- Provide more survey guidance on evaluating hospice patients who reside in SNF/NF and ICF/IID.
- Provide guidance on how to evaluate continuous home care as well as general inpatient care for pain and symptom management.
- Provide more guidance on how to evaluate bereavement counseling. Enhanced assessment for patient abuse and neglect and conflict of interest.”

Survey Activity: Clinical Record Review

SOM Appendix M Task 3-Sample Selection

- The sampling strategy increases the number of records and ensures that a broader range of hospice activities are investigated
- ***Live discharges, bereavement follow-through, care for patients needing higher levels of care***) from all of the locations where the hospice operates ('multiple locations')
- Includes variety of home settings where patients live and variety of terminal diagnoses
- The sample for an inpatient hospice survey is in this document, under the description of §418.110, at Table 2. Inpatient Hospice Sample)

Sample size determined by:

1) size of the hospice;
2) closed record reviews of patients who revoked the hospice benefit;
3) closed records for bereavement;
4) current patient home visit with record review, and
5) Surveyors can expand the sample, during the survey, to investigate findings as needed.

Survey Activity: Clinical Record Review

SOM Appendix M Task 3-Sample Selection

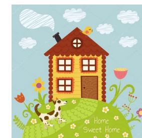
Number of Admissions (Past 12 months)	Closed Records (Live Discharges)	Closed Records (Bereavement Records)	Record Review – No Home Visit (RR-NHV)	Record Review with Home Visit (RR-HV)	Total Minimum Sample	Inclusion of Records from Multiple Location(s)
< 150	2	2	7	3	14	The number of records from each multiple location should be proportionate. Include at least one RR-NHV or RR-HV from each location
150-750	2	3	10	4	19	
751-250	2	3	12	6	23	
1,251 or more	3	4	14	6	27	

Survey Activity: Home Visits

- Purpose of the home visit is to evaluate the following:
  - Care provided by the Hospice meets the health and safety standards of the Medicare program
  - Agency protects and promotes patient rights
  - Comprehensive assessment is current
  - Care provided is consistent with the patient's plan of care
- The home visit is:
  - The only opportunity for the surveyor to observe the direct care provided by Hospice personnel.
  - The most important means of information gathering during the hospice survey.
- The surveyor uses observational and interview skills to assess the hospice's adherence to the requirements.

Survey Activity: Home Visits

Key Considerations for Home Visits



- Bag Technique
- Medical Waste Disposal
- COVID Screening*
- Hand Hygiene
- Trunk Supplies
- Medications
- Home Environment
- Care Plan/Physician Orders
- Patient/Family Rights and Communication
- Interdisciplinary Group/Care Coordination
- Admission Paperwork/Emergency Plan
- SNF/ALF Coordination
- Timely Provision of Drugs, Treatments, Services and DME
- Hospice Aide Training/Competency
- Volunteer Utilization

Survey Activity: Interviews with Patients, Families and Staff

- The objective of hospice interviews with patients, family/caregivers and staff is to further investigate and confirm findings identified during record reviews, observations, and to clarify other interviews.
- Interview questions are utilized based on the patient/family situation and responses.
- Must include IDG staff members who provide clinical care directly.
  - RN whose primary function is the care of the patient and coordination of care between the patient and the IDG, is the most critical.
- Administrative/Organization staff interviewed only as necessary.
- Refer to CMS State Operations Manual Appendix M Task 4 – Information Gathering – Phase 1 & Phase 2 for sample observation/interview questions

Role of IDG in Survey

- Core and Non-Core members of the IDG may be included in staff observation and interviews during the hospice survey.
- IDG Meeting Observation:
  - Are all relevant core services staff present (remote or in person)?
  - Are other hospice staff members involved in the patient's care participating?
  - Are family/caregivers encouraged to attend?
  - Are the goals of care being reviewed and revised as needed?
  - Is the plan of care being reviewed and revised as needed?
  - How are documented missed visits being addressed?
  - The surveyor will also assess for evidence of coordination of care and communication with the IDG, Patient/Family, and with non-hospice providers (attending physicians, pharmacy, SNFs, etc.).

Top 10 Survey Deficiencies: Hospice Oct. 2021-May 2024

CoP/Standard	L-Tag	Tag Description
418.56(b)	L0543	Standard: Plan of care
418.60(a)	L0579	Standard: Infection Control - Prevention
418.54(c)(6)	L0530	Standard: Comprehensive Assessment – Drug Profile
418.56(c)	L0545	Standard: Content of Plan of Care
418.56(e)(2)	L0555	Standard: Content of Plan of Care – Coordination of Services
418.56(c)(2)	L0547	Standard: Content of Plan of Care – Scope and Frequency of Services
§418.76(g	L0625	Standard: Hospice aide assignments and duties
§ 418.56(d)	L0552	Standard: Review of the plan of care
§ 418.54(b)	L0523	Standard: Timeframe for completion of the comprehensive assessment
§ 418.56(c)(4)	L0549	Standard: Drugs and treatment necessary to meet the needs of the patient

Source: S&C QCOR Home Page (cms.gov)

SOM Task 5 - Preliminary Decision Making and Analysis of Findings

- Surveyors must review and analyze all information gathered during the survey from all areas.
- Analysis of Findings Based On:
  - Effect or potential effect on the patient(s)
  - Degree of severity
  - Frequency of occurrence
  - Impact on the delivery of services
- Additional guidance on standard-versus condition-level noncompliance

SOM Task 6 - Exit Conference

- Informs Hospice of Observations and Preliminary Findings
- Conducted with Hospice Administrator, Supervisors and Hospice-Invited Staff.
- Describes Regulatory Requirements that Hospice Does Not Meet and Findings.
- CMS has added surveyor guidance to clarify:
  - Avoid using data tag numbers only when referring to survey findings.
  - Surveyors may give specific regulatory citation references.
  - Surveyors do not need to provide instructions or a timeframe for the hospice to submit a Plan of Correction.
- NOTE: exit conferences MAY be recorded by the agency as long as a copy is provided to the surveyor prior to the surveyor leaving the premises (surveyor may also record the exit conference).

Task 7 – Post Survey Activities

- Form CMS 2567 Sent to Hospices within **10 Working Days**
- Plan of Correction must be Submitted within **10 Calendar Days** of Receipt of Statement of Deficiencies (Form CMS-2567).
- Pursuant to 42 CFR § 488.7(c), CMS posts inspection reports from an SA or AO conducted on or after October 1, 2022, for hospice programs, including copies of a hospice program's survey deficiencies and enforcement actions (for example, involuntary terminations) taken as a result of such surveys, on its public website.
- When a PoC is required, the hospice's PoC and timeframes for implementation of corrective actions are incorporated into the Form CMS 2567 by the hospice and returned to the SA/AO.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION A. BUILDING ______ B. WING ______	(X3) DATE SURVEY COMPLETED

NAME OF FACILITY	STREET ADDRESS, CITY, STATE, ZIP CODE

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERRED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See reverse for further instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE

FORM CMS-2567 (02/99) Previous Versions Obsolete

If continuation sheet Page _____ of _____

Standard vs Condition Level Deficiencies

- Standard Level Deficiencies
  - Noncompliance with any single requirement or several requirements within a particular standard.
  - Doesn't substantially limit a hospice's capacity to furnish adequate care or doesn't jeopardize the health or safety of patients if the deficient practice recurred.
- Condition Level Deficiencies
  - Noncompliance with requirements in a single standard or several standards within the condition.
  - Representing an actual or potential severe or critical patient health or safety breach.

Sample Deficiencies Based on Survey

- Failure to promote and protect the patient's rights;
- Failure to accurately conduct a patient-specific comprehensive assessment that identifies the patient/family's need for hospice care and services, and the patient/family's need for physical, psychosocial, emotional, and spiritual care;
- Failure to develop and implement a plan of care that meets the needs identified in the initial or comprehensive assessment;
- Failure of the IDG to meet the physical, medical, psychosocial, emotional, and spiritual needs of the hospice patient/family.

Sample Deficiencies Based on Survey

- Failure to provide all covered services, as necessary, including the continuous home care level of care, respite care and short-term inpatient care.
- Failure to provide nursing and physician services, drugs and treatments on a 24-hour basis.
- Failure to retain professional management responsibility for all hospice services provided under contract to patients.
- Failure to develop, implement, and maintain an effective Emergency Preparedness/Pandemic Program/Plan or QAPI Program.
- Failure to follow agency policies (i.e. bag technique, infection control, documentation timelines, personnel file requirements: performance evaluations, TB testing, etc.).

Post Exit Conference

- Determine validity of stated deficiencies
  - Are surveyor's interpretations of regulations and agency policies correct?
- Is citation for failure to comply with own policy?
- Correct valid problems
- Request surveyor clarification
- Assemble evidence/supporting documentation
- Dispute disagreements in plan of correction

Plan of Correction Follow Up

- Plan of Correction required to be approved in 10 working days by the survey agency following agency submission.
- Additional follow up may occur for rejected Plans of Correction.
- Hospice must demonstrate full compliance in all deficient areas
- Follow up visit by state/AO for condition level deficiencies within 45 days
- Failure to demonstrate full compliance with a Condition Level Deficiency may result second follow up visit and termination of certification (90 days) if deficiencies not lifted by survey agency.
- Providers may appeal findings to the State Survey Agency or AO
- NOTE: State licensure violations will have a separate Plan of Correction.

Post Survey Re-Visit

- Onsite re-visit is required for a condition level deficiency:
  - Assess the hospice's correction of the deficiencies previously cited on the CMS Form 2567.
  - Re-evaluate specific care and services cited during survey
  - Nature of deficiencies dictates the necessity for and scope of visit
  - Home visits may be required
- Uncorrected or additional deficiencies require another CMS 2567 and Plan of Correction.
- Potential Enforcement Action

Plan of Correction Requirements

- Address each L-Tag separately
- Must include the following:
  - Action that will be taken to correct each specific deficiency cited;
  - Description of how the actions will correct, and/or improve the processes that led to, the deficiency cited;
  - The procedure for implementing the corrective actions;
  - Ongoing monitoring and tracking processes to bring the hospice into compliance and sustained compliance;
  - Identify staff member by title and date of completion of each corrective action plan component.
- Recommend inclusion of all citations even if the agency is appealing findings.
- **MAKE THE POC MEASURABLE AND ACHIEVABLE**

Key Plan of Correction Documentation - Examples

- Address immediate needs
- Policy Review/Revision
- Document Review/Revision
- Staff Training on all policies, practices, forms
  - Include staff competency and ongoing training
- Baseline clinical record audit
- Ongoing audits with thresholds for compliance
- Reporting of findings/status of POC to Administrator/QAPI, Governing Body, etc.)

Plan of Correction Implementation Reminders

- Must ensure oversight of Plan of Correction to ensure it is implemented as noted.
- Incorporate into agency QAPI Program priorities
- Quarterly review of the Plan of Correction to address any areas not meeting deadlines or achieving improvement.
- Report to Governing Body at least quarterly regarding progress
- Include previous deficiencies in survey readiness program
- Hold staff accountable

Immediate Jeopardy: CMS SOM Appendix Q

- Applies to all Medicare provider types
- https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/QSO-19-09-ALL-REVISED.pdf
- Includes:
  - Core Appendix Q and Subparts
  - Key Components of IJ
  - IJ Template

Immediate Jeopardy: CMS SOM Appendix Q

- Definition:
  - A situation in which the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a patient.
- Only **ONE INDIVIDUAL** needs to be at risk
- Harm does **NOT** have to occur before considering Immediate Jeopardy.
  - Consider both potential and actual harm when reviewing the triggers in the table.
- Psychological harm is as serious as physical harm

Immediate Jeopardy: CMS SOM Appendix Q

- In order to cite immediate jeopardy, pursuant to Core Appendix Q guidelines, surveyors determine that:
  - (1) Noncompliance AND
  - (2) Caused or created a likelihood that serious injury, harm, impairment or death to a recipient would occur or recur; AND
  - (3) Immediate action is necessary to prevent the occurrence or recurrence of serious injury, harm, impairment or death to one or more recipients.

Immediate Jeopardy Triggers - Examples

- Patient injuries
- Physical abuse
- Verbal abuse
- Restraint use
- Incorrect medication/Adverse reactions
- Failure to assess/follow up regarding patient changes
- Failure to follow plan of care
- Failure to manage patient's symptoms
- Failure to perform wound care
- Improper handling blood/body fluids

Immediate Jeopardy Termination Timeline

- 2nd working day-SA/AO notifies RO and Hospice of deficiencies.
- 3rd working day-overnight to RO for review
- 5th working day-RO notifies Hospice & public
- 10th working day-Hospice & RO notified of all deficiencies, state Medicaid agency notified.
- 23rd calendar day-termination effective
  - Unless threat removed
- If condition level deficiencies are still out - 90-day termination cycle.

Appeals

- Process is in accordance with State Operations Manual and State licensing agency:
  - Right to Comment
  - Formal Appeal Rights
- Statement of Deficiency Response Options:
  - Accept all deficiencies and submit a Plan of Correction
  - Submit Plan of Correction and record objections to cited deficiencies
  - Record objections to cited deficiencies
- Recommend that all deficiencies have a draft POC developed even if the agency is appealing:
  - Timeline does not change if appeal is denied

Reference: CMS Survey and Enforcement Guidance 3026B - Plan of Correction (POC) Disagreements

CMS Survey and Enforcement Guidance 3026B – Plan of Correction (POC) Disagreements

- **Reminder**: the CMS 2567 is a public document
- For disputes regarding the surveyor judgment related to the level, extent, scope, or severity of a deficiency, an agency may choose to include a statement on the CMS2567 for the deficiency in question (example):

  "*This plan of correction constitutes our written allegation of compliance for the deficiencies cited. However, submission of this plan of correction is not an admission that a deficiency exists or that one was correctly cited. This plan of correction is submitted to comply with state and federal laws*."

Hospice Manager Involvement in Survey

- Check surveyor identity upon entrance
- Notify Hospice Administrator/Designee
- Provide private space to work and access to an assigned staff person
- Leadership: Ensure availability of leaders/designee, survey point person, Board member, and Medical Director/Designee
- Provide agency information and short-term inpatient care documentation
- Work with staff in identification of patients, schedules and records
- Determine and provide information needed in a timely manner
- Keep list of records and visits
- Communicate with staff/managers ongoing regarding potential findings
- Clarify any identified issues immediately during survey
- Plan for immediate follow up and POC, if applicable
- It is the agency's responsibility to be able to demonstrate to the surveyor how the agency meets the **applicable CoP/Standard**

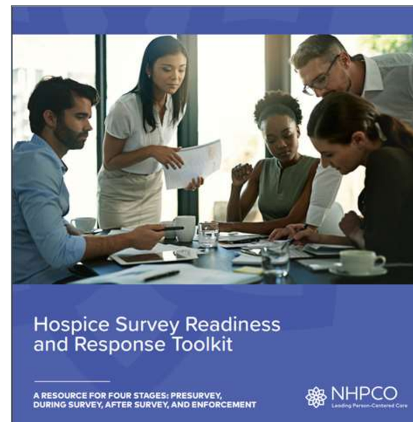
Survey Readiness Reminders

- Hospice managers and leaders must place a priority on ongoing regulatory compliance and survey readiness.
- Keep a Survey Readiness book in the office and online in all locations. Make sure all staff knows where the book and the required contents can be found.
  - **NHPCO Survey Readiness and Response Toolkit**
- Identify designated survey readiness and response staff AND BACK UP.
  - Identify who the Administrator/Clinical Director/Survey Lead and back up.
  - Test ability to compile requested reports timely, timely access to EMR and identify IT back up
- Conduct mock surveys at least annually using CMS survey protocols.
  - Implement the surveyor guidance and probes in ongoing mock survey/survey readiness efforts.
- Remember that the focus is primarily on patient care, so a strong concurrent record review process, staff education and supervisory home visits are key areas.

Survey readiness should be an ongoing, agency wide effort

Hospice Survey Readiness and Response Toolkit

1. **Section One: Presurvey Preparation**
   i. SUBPART C – Patient Care
   ii. Supplemental Resources – Subpart C
   iii. SUPBART B – Organizational Environment
   iv. Supplemental Resource – Subpart
2. **Section Two: During the Survey**
   i. Supplemental Resources
3. **Section Three: After the Survey**
   i. Supplemental Resources
4. **Section Four: Enforcement**
   i. Supplemental Resources



Resources

Survey Preparation Documents

- Regulatory Resources to Include the Survey Preparation Manual:
  - CMS State Operations Manual:
    - Chapter 2-Certification Process
    - Appendix M-Hospice (includes 42 CFR 418 Conditions of Participation for Hospice and L-Tags).
  - Applicable State Licensure Regulations
  - Accreditation Standards (if applicable)
  - Evidence of surveyor guidance (if applicable)

Resources

- Part 488—Survey, Certification, And Enforcement Procedures – Subpart N - Hospice
  - https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-G/part-488/subpart-N
- CMS State Operations Manual Appendix M – Hospice
  - https://www.cms.gov/files/document/qso-23-08-hospice.pdf
- NHPCO Survey Readiness and Response Toolkit
  - www.nhpco.org

Thank you & Contact Information

Presenter contact information:

Kimberly Skehan, RN, MSN, VP of Accreditation
Community Health Accreditation Partner (CHAP)
2300 Clarendon Blvd., Ste. 405, Arlington, VA 22201
(202) 868-6917 | kim.skehan@chapinc.org

Please continue the conversation in the Discussion Forum of this Module or send questions to:

HCCP Questions: hccp@nhpco.org HQCP Questions: hqcp@nhpco.org