

## **Frequently Asked Hospice Volunteer Regulatory Questions**

### **Updated August 2021**

#### DISCLAIMER

This Compliance Guidance has been gathered and interpreted by NHPCO from various resources and is provided for informational purposes. This should not be viewed as official policy of CMS or the Medicare Administrative Contractors (MACs). It is always the provider's responsibility to determine and comply with applicable CMS, MAC, and other payer requirements.

### **Cost Savings Calculation:**

#### **What activities can be included in the 5% cost savings calculation?**

CMS allows hospice providers to count direct patient care activities and administrative activities towards the 5% cost savings calculation. The key is that the volunteer has direct contact with the patient and the family. Examples of direct patient care services could include (but are not restricted to):

- Helping patients and families with household chores
- Shopping
- Transportation
- Companionship
- Mowing a patient's lawn
- Walking a patient's dog

Volunteers may assist in ancillary and office activities that support direct patient care activities.

Examples of administrative activities could include (but are not restricted to):

- Answering telephones
- Filing
- Assisting with patient and family mailings
- Data entry

#### **What activities don't count towards the 5% cost savings calculation?**

Hospices may use volunteers in non-administrative and non-**direct** patient care activities, but CMS has stated that they are **not eligible** for inclusion in the 5% calculation. Some of these activities include:

- Craft projects
- Quilting/ sewing/knitting
- Cooking and baking
- Group singing for general patient population
- Orientation, in-service education
- Interdisciplinary team meetings
- Board participation and board meetings
- Community events (i.e.: health fairs)
- Marketing activities
- Thrift Stores/Fundraising

**Do the hours a volunteer spends assisting with the hospice’s bereavement program count towards the cost savings calculation?**

NHPCO believes that volunteer bereavement hours could be counted in the 5% cost savings calculation. Examples of activity could include phone calls to family members or caregivers of hospice patients who are participating in the hospice’s bereavement program and assistance in a grief camp run by the hospice.

**Can a hospice treat student interns or students as volunteers and then use their hours towards the cost savings calculation?**

After reviewing the CoP regulatory text and the interpretive guideline language, there is lack of detail related to the use of interns or students as volunteers. Using interns as volunteers and counting their hours towards the cost savings calculation would be at your organization’s discretion. Your organization might consider if the interns are performing a needed task or simply shadowing to make a grounded decision.

**Do the hours a volunteer spends providing professional services count in the cost savings calculation?**

Hospice provider may use licensed professionals as volunteers in their program, but the professional licensure of the individual must be current and applicable per state regulations to the service they will provide. Examples of these types of volunteers could include hair and nail technicians, massage therapists, aroma therapist, etc....

**Where can a hospice find a volunteer value rate to use in their cost savings calculation?**

NHPCO’s, *Hospice Volunteer Program Resource Manual* recommends using the following:

- *Independent Sector website*  
([www.independentsector.org/programs/research/volunteer\\_time.html](http://www.independentsector.org/programs/research/volunteer_time.html)) to determine volunteer hourly rates each year.

**Which paid staff hours can a hospice use when calculating the required cost savings?**

To determine how many hours will be required to meet your program’s cost savings requirement, divide the number of hours that hospice volunteers spent providing administrative and/or direct patient care services by the total number of direct patient care hours of all paid hospice employees and contract staff. These are direct patient care services provided by the interdisciplinary group (IDG) (physician, nurse, hospice aide, social worker, chaplain, dietary counselor, bereavement counselor).

IDG meetings and paid administrative staff time in the cost savings calculation **do not** count in this time calculation.

**How do I calculate the cost savings?**

To determine how many hours will be required to meet your program’s 5 percent requirement, divide the number of hours that hospice volunteers spent providing administrative and/or direct patient care services by the total number of patient care hours of all paid hospice employees and contract staff. For example, if your organization provides 12,000 hours of paid direct patient care during a one-year period, it must provide 600 volunteer hours in direct patient care or administrative activities to meet the required 5 percent total (e.g., 12,000 hours in paid and contract direct patient care staff time x 5% = 600 volunteer hours). Once the 600 volunteer hours are met, your organization can vary the amount of care provided by volunteers.

NHPCO has created a [Cost Savings Match Information Sheet](#) to assist providers with the calculation.

## Volunteer Training

### How many hours should a volunteer orientation program include?

The federal regulations do not specify a required length of volunteer training, but providers should review state hospice licensure regulations for any related requirements. NHPCO's, Hospice Volunteer Program Resource Manual suggests a 16-hour training program.

### What content should be included in a volunteer training program?

Surveyors will be looking for evidence that volunteers are aware of:

- Hospice goals, services, and philosophy
- Confidentiality and protection of the patient's and family's rights
- Family dynamics
- Coping mechanisms and psychological issues surrounding terminal illness, death, and bereavement
- Guidance related specifically to individual responsibilities
- Are aware of their duties and responsibilities
- Know to whom they should report before being assigned to a patient and family or given administrative duties
- Training to perform a skill or activity with a specific patient

### What annual in-service training must be provided for volunteers?

The federal hospice regulations do not specify the number or type of in-service training hours for employees or volunteers. If state hospice licensure regulations or accreditation standards (if applicable) do not specify this information, the number and type of in-service training hours are at an organization's discretion.

## Volunteer Travel Time

### Can a hospice count volunteer travel time towards the cost savings calculation?

- If a hospice compensates its paid staff for travel time, the hospice can also count travel time for volunteers in meeting the cost savings requirement, if that data is collected.
- Per CMS, "What that means is that if your staff is paid for the time it takes them to drive to a patient's home, then you can count the time it takes for a volunteer to drive to a patient's home. However, if you do not pay an administrative staff for the time it takes to drive to the office, then you cannot count the travel time of the volunteer who drives to an office location to volunteer."

### Can a hospice pay a volunteer mileage reimbursement?

Current law allows charities to reimburse volunteers, on a nontaxable basis only, up to the annual IRS charitable mileage rate. The charitable mileage rate has remained unchanged since 1997 and remains at 14 cents per mile for volunteers driving for charitable purposes. Alternatively, volunteers are permitted to deduct their "out of pocket" expenses incurred in providing donated services — when those expenses are not reimbursed. Check the mileage rate each year and read more about [mileage and volunteers](#).

## Documentation of Volunteer Services

### What documentation does a volunteer need to complete?

The duties of volunteers used in direct patient care services must be evident in the patient's plan of care. There should be documentation of time spent and the services provided by volunteers. A hospice provider can choose the mode and process of documentation to meet this requirement. The volunteer notes are part of a patient's clinical record.

## Volunteers and the Patient's Plan of Care

### Can a hospice list a volunteer's visit frequency as PRN?

CMS requires that all disciplines, including volunteers, listed on the patient's plan of care have distinct visit frequencies. Visit ranges are acceptable but should not have an excessive gap. (i.e.: 2-3visits/ week versus 2-6 visits/week) PRN is not allowable as a standalone visit frequency. PRN can accompany a distinct visit frequency such as 1-2/ month and 2 PRNs. If there is no specified visit frequency for the volunteer, the provider could use a phrase such as "per patient request" as the frequency on the patient's plan of care.

### Do there need to be specific physician orders for volunteer services?

The federal hospice regulations do not specify that physician orders are required for volunteer services. However, a hospice provider must check their state's hospice licensure regulations and accreditation standards (as applicable) for any requirements.

## Volunteer Administrative Related Issues

### Can paid hospice staff volunteer for their hospice employer on their off hours?

Guidance on this issue from the Department of Labor ("DOL") is complex and not always consistent. Therefore, care must be taken when using volunteers who are also paid hospice staff. Additionally, applicable rules differ depending on whether an employee is "exempt" or "non-exempt" under the Fair Labor Standards Act ("FLSA").

Non-exempt employees who volunteer should do so in a different capacity than the one for which they are employed. The services they perform must be entirely voluntary, with no coercion of the employee, no promise of benefit or threat of penalty for not volunteering. The employee should not be replacing another employee or impairing the employment opportunities of others by performing work that would otherwise be performed by regular employees, and the volunteer activity should not take place during the employee's regular working hours or scheduled overtime hours. Individuals who provide general office or administrative services to their employers are less likely to be considered "volunteers." On the other hand, individuals who provide "charitable" or "humanitarian" services, such as running errands for patients, sitting with patients, going to funerals, and other patient-support type functions are more likely to be considered volunteers.

Exempt employees who volunteer may do so in the same capacity for which they are employed without issue under the FLSA. If, however, the exempt employee volunteers in a different capacity, then the employee should meet the same standards that apply with respect to non-exempt employees, as described in the previous paragraph.

Significantly, as a general matter under the FLSA, DOL has stated that it is less likely to find that an employee of a for-profit entity is a legitimate volunteer as opposed to an employee of a non-profit. Therefore, for-profit hospices should be particularly careful to comply with the above standards when using volunteers. State laws may also apply, so hospices should seek legal counsel regarding volunteer activities provided by their employees.

#### **What type of supervision does a volunteer require?**

Volunteers are considered hospice employees to facilitate compliance with the core services requirement so they must be supervised by a designated individual employee who is responsible for the use, training, and supervision of volunteers. This is a person(s) of the hospice's choosing. There should be evidence that all volunteers received the supervision necessary to perform their assignments.

A surveyor will be looking at how the hospice supervises their volunteers and if there is evidence that:

- All volunteers receive the supervision necessary to perform their assignments
- There is documentation supporting that all the volunteers have received training or orientation before being assigned to a patient/family

#### **Do volunteers need competency testing?**

All required volunteer training should be consistent with the specific tasks that volunteers perform, so depending on the activity, training, competency testing, and documentation of competency is required.

#### **Can teens (under age 18 years) volunteer for a hospice?**

- There are no specific federal regulations that address teen volunteers in hospice. A provider needs to determine whether teen volunteers have to have work permits and whether they fall under child labor laws in their state. Providers should check with their state Department of Labor to see if permits are required and if there are any other applicable requirements.
- Hospice providers should ensure the duties of a teen volunteer are appropriate for their chronological and developmental age.

#### **Does a volunteer need to complete an I-9 form?**

Volunteers do not need to complete an I-9 form. The Form I-9 verification requirement applies only to "employees," defined in Department of Homeland Security regulations as "An individual who provides services or labor for an employer for wages or other remuneration . . .". Accordingly, the hospices should not treat their volunteers as employees in this respect.

#### **Do all volunteers need to have a criminal background check?**

Since volunteers are considered non-paid employees, they are included in the criminal background check requirement per the Medicare Hospice CoPs at § 418.114.

#### **Do I have to check my volunteers against the OIG list of excluded individuals and how often should I do it?**

All employees and volunteers should be screened before bringing them on board. Most hospices check the OIG list of excluded individuals and entities (LEIE) once per month. Volunteers should be included in that monthly check. The link to check employees for exclusion is:

<https://oig.hhs.gov/exclusions/index.asp%20>

**Do volunteers need a physical and TB test at hire and annually?**

The federal hospice regulations do not include guidance related to physicals or TB testing. It is important to check your state hospice licensure regulations and accreditation standards (if applicable), state health department, and state Department of Labor for employee health guidance. In the absence of any guidance, the decision about physicals and TB testing would be at your organization's discretion.

**Does a hospice provider need to obtain copies of a volunteer's driver's license and auto insurance?**

There are no federal hospice regulations that address this issue. Providers should check their state hospice licensure regulations and accreditation standards (if applicable), and in the absence of any requirement, this would be at your organization's discretion.

**Resources**

[Hospice Volunteer Program Resource Manual](#)

**References**

Centers for Medicare and Medicaid Services. (2008, Jun 5). Medicare and Medicaid Programs: Hospice Conditions of Participation; Final Rule as updated in the Electronic Code of Federal Regulations, 42 CFR 418. Retrieved from [Electronic Code of Federal Regulations \(eCFR\)](#)

Office of the Inspector General. (2013). [Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs](#). Retrieved from <http://oig.hhs.gov/exclusions/files/sab-05092013.pdf>