

## 424.22 Requirements for home health services.

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Medicare Part A or Part B pays for home health services only if a physician or allowed practitioner as defined at § 484.2 of this chapter certifies and recertifies the content specified in paragraphs (a)(1) and (b)(2) of this section, as appropriate.

(a) Certification - (1) Content of certification. As a condition for payment of home health services under Medicare Part A or Medicare Part B, a physician or allowed practitioner must certify the patient's eligibility for the home health benefit, as outlined in sections 1814(a)(2)(C) and 1835(a)(2)(A) of the Act, as follows in paragraphs (a)(1)(i) through (v) of this section. The patient's medical record, as specified in paragraph (c) of this section, must support the certification of eligibility as outlined in paragraph (a)(1)(i) through (v) of this section.

(i) The individual needs or needed intermittent skilled nursing care, or physical therapy or speech-language pathology services as defined in § 409.42(c) of this chapter. If a patient's underlying condition or complication requires a registered nurse to ensure that essential non-skilled care is achieving its purpose, and necessitates a registered nurse be involved in the development, management, and evaluation of a patient's care plan, the physician or allowed practitioner will include a brief narrative describing the clinical justification of this need. If the narrative is part of the certification form, then the narrative must be located immediately prior to the physician or allowed practitioner's signature signature. If the narrative exists as an addendum to the certification form, in addition to the physician or allowed practitioner's signature signature on the certification form, the physician or allowed practitioner must sign immediately following the narrative in the addendum.

(ii) Home health services are or were required because the individual is or was confined to the home, as defined in sections 1835(a) and 1814(a) of the Act, except when receiving outpatient services.

(iii) A plan for furnishing the services has been established and will be or was periodically reviewed by a physician or allowed practitioner and who is not precluded from performing this function under paragraph (d) of this section.

(iv) The services will be or were furnished while the individual was under the care of a physician or allowed practitioner.

(v) A face-to-face patient encounter, which is related to the primary reason the patient requires home health services, occurred no more than 90 days prior to the home health start of care date or within 30 days of the start of the home health care and was performed by physician or non-physician practitioner defined in paragraph (a)(1)(v)(A) of this section.

The certifying physician or certifying allowed practitioner must also document the date of the encounter as part of the certification.

(A) The face-to-face encounter must be performed by one of the following:

(1) The certifying physician (as defined at § 484.2 of this chapter) or a physician, with privileges, who cared for the patient in an acute or post-acute care facility from which the patient was directly admitted to home health.

(2) The certifying nurse practitioner (as defined at § 484.2 of this chapter), certifying clinical nurse specialist (as defined at § 484.2 of this chapter), or a nurse practitioner or a clinical nurse specialist who is working in accordance with State law and in collaboration with a physician or in collaboration with an acute or post-acute care physician with privileges who cared for the patient in the acute or post-acute care facility from which the patient was directly admitted to home health.

(3) A certified nurse midwife (as defined in section 1861(gg) of the Act) as authorized by State law, under the supervision of a physician or under the supervision of an acute or post-acute care physician with privileges who cared for the patient in the acute or post-acute care facility from which the patient was directly admitted to home health.

(4) A certifying physician assistant (as defined at § 484.2 of this chapter) or a physician assistant under the supervision of a physician or under the supervision of an acute or post-acute care physician with privileges who cared for the patient in the acute or post-acute care facility from which the patient was directly admitted to home health.

(B) The face-to-face patient encounter may occur through telehealth, in compliance with section 1834(m) of the Act and subject to the list of payable Medicare telehealth services established by the applicable physician fee schedule regulation.

(C) The face-to-face patient encounter must be performed by the certifying physician or allowed practitioner unless the encounter is performed by:

(1) A certified nurse midwife as described in paragraph (a)(1)(v)(A)(4) of this section.

(2) A physician, physician assistant, nurse practitioner, or clinical nurse specialist with privileges who cared for the patient in the acute or post-acute facility from which the patient was directly admitted to home health and who is different from the certifying practitioner.

(2) Timing and signature. The certification of need for home health services must be obtained at the time the plan of care is established or as soon thereafter as possible and must be signed and dated by the physician or allowed practitioner who establishes the plan.

(b) Recertification - (1) Timing and signature of recertification. Recertification is required at least every 60 days when there is a need for continuous home health care after an initial 60-day episode. Recertification should occur at the time the plan of care is reviewed, and must

be signed and dated by the physician or allowed practitioner who reviews the plan of care. Recertification is required at least every 60 days unless there is a -

(i) Beneficiary elected transfer; or

(ii) Discharge with goals met and/or no expectation of a return to home health care.

(2) Content and basis of recertification. As a condition for payment of home health services under Medicare Part A or Medicare Part B, if there is a continuing need for home health services, a physician or allowed practitioner must recertify the patient's continued eligibility for the home health benefit as outlined in sections 1814(a)(2)(C) and 1835(a)(2)(A) of the Act, as set forth in paragraph (a)(1) of this section, and as specified in paragraphs (b)(2)(i) and (ii) of this section.

(i) Need for occupational therapy may be the basis for continuing services that were initiated because the individual needed skilled nursing care or physical therapy or speech therapy.

(ii) If a patient's underlying condition or complication requires a registered nurse to ensure that essential non-skilled care is achieving its purpose, and necessitates a registered nurse be involved in the development, management, and evaluation of a patient's care plan, the physician or allowed practitioner must include a brief narrative describing the clinical justification of this need. If the narrative -

(A) Is part of the recertification form, then the narrative must be located immediately prior to the physician or allowed practitioner's signature.

(B) Exists as an addendum to the recertification form, in addition to the physician or allowed practitioner's signature on the recertification form, the physician or allowed practitioner must sign immediately following the narrative in the addendum.

(c) Determining patient eligibility for Medicare home health services. (1) Documentation in the certifying physician or allowed practitioner's medical record or the acute/post-acute care facility's medical records (if the patient was directly admitted to home health) or both must be used as the basis for certification of the patient's eligibility for home health as described in paragraphs (a)(1) and (b) of this section. Documentation from the HHA may also be used to support the basis for certification of home health eligibility, but only if the following requirements are met:

(i) The documentation from the HHA can be corroborated by other medical record entries in the certifying physician or allowed practitioner's medical record for the patient or the acute/post-acute care facility's medical record for the patient or both, thereby creating a clinically consistent picture that the patient is eligible for Medicare home health services.

(ii)(A) The certifying physician or allowed practitioner signs and dates the HHA documentation demonstrating that the documentation from the HHA was considered when certifying patient eligibility for Medicare home health services.

(B) HHA documentation can include, but is not limited to, the patient's plan of care required under § 409.43 of this chapter, or the initial or comprehensive assessment of the patient required under § 484.55 of this chapter.

(2) The documentation must be provided upon request to review entities or CMS or both. If the documentation used as the basis for the certification of eligibility is not sufficient to demonstrate that the patient is or was eligible to receive services under the Medicare home health benefit, payment is not rendered for home health services provided.

(d) Limitation of the performance of physician or allowed practitioner's certification and plan of care functions. The need for home health services to be provided by an HHA may not be certified or recertified, and a plan of care may not be established and reviewed, by any physician or allowed practitioner who has a financial relationship as defined in § 411.354 of this chapter, with that HHA, unless the physician or allowed practitioner's relationship meets one of the exceptions in section 1877 of the Act, which sets forth general exceptions to the referral prohibition related to both ownership/investment and compensation; exceptions to the referral prohibition related to ownership or investment interests; and exceptions to the referral prohibition related to compensation arrangements.

(1) If a physician or allowed practitioner has a financial relationship as defined in § 411.354 of this chapter, with an HHA, the physician or allowed practitioner may not certify or recertify need for home health services provided by that HHA, establish or review a plan of treatment for such services, or conduct the face-to-face encounter required under sections 1814(a)(2)(C) and 1835(a)(2)(A) of the Act unless the financial relationship meets one of the exceptions set forth in § 411.355 through § 411.357 of this chapter.

(2) A Nonphysician practitioner may not perform the face-to-face encounter required under sections 1814(a)(2)(C) and 1835(a)(2)(A) of the Act if such encounter would be prohibited under paragraph (d)(1) if the nonphysician practitioner were a physician.