

§418.66(a) CMS may waive the requirement in §418.64(b) that a hospice provide nursing services directly, if the hospice is located in a non-urbanized area. The location of a hospice that operates in several areas is considered to be the location of its central office. The hospice must provide evidence to CMS that it has made a good faith effort to hire a sufficient number of nurses to provide services. CMS may waive the requirement that nursing services be furnished by employees based on the following criteria:

§418.66(a)(1) The location of the hospice's central office is in a non-urbanized area as determined by the Bureau of the Census.

§418.66(a)(2) There is evidence that a hospice was operational on or before January 1, 1983 including the following:

- i. Proof that the organization was established to provide hospice services on or before January 1, 1983.**
- ii. Evidence that hospice-type services were furnished to patients on or before January 1, 1983.**
- iii. Evidence that hospice care was a discrete activity rather than an aspect of another type of provider's patient care program on or before January 1, 1983.**

§418.66(a)(3) By virtue of the following evidence that a hospice made a good faith effort to hire nurses:

- i. Copies of advertisements in local newspapers that demonstrate recruitment efforts.**
- ii. Job descriptions for nurse employees.**
- iii. Evidence that salary and benefits are competitive for the area.**
- iv. Evidence of any other recruiting activities (for example, recruiting efforts at health fairs and contacts with nurses at other providers in the area).**

§418.66(b) Any waiver request is deemed to be granted unless it is denied within 60 days after it is received.

§418.66(c) Waivers will remain effective for 1 year at a time from the date of the request.

§418.66(d) If a hospice wishes to receive a 1-year extension, it must submit a request to CMS before the expiration of the waiver period, and certify that the conditions under which it originally requested the initial waiver have not changed since the initial waiver was granted.

Interpretive Guidelines §418.66

Section 1861(dd)(5)(a)(i) of the Social Security Act specifically references urbanized areas as defined by the Bureau of the Census. Further information on this topic is available at <http://www.census.gov>. Hospices may also contact their assigned Medicare administrative contractor or check the hospice wage index, which is updated and published yearly.

If there is any question concerning a waiver, contact the CMS Location.
