

Affordable Care Act Update:

Concurrent Curative and Hospice Care for Children

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In the course of serving families of children and youth with special health care needs, we must address the saddest and most heartbreaking situations, including hospice. Hospice, also known as palliative care, is care for a terminally ill patient that specifically addresses and treats pain and associated symptoms. This care may address physical, emotional, spiritual, and social concerns and is provided during the last six months of one's life.

One provision of the Affordable Care Act (ACA) provides children and their parents the option of receiving concurrent hospice and curative services. That is to say, Medicaid-eligible children who are battling a terminal illness and their parents may elect to continue treating the illness while receiving palliative care services. Thus, Section 2302 of the ACA aims to provide families with both comfort and hope during the most challenging times.

Because this is a relatively new concept, many states are struggling with proper implementation of this provision. Often times, the line between care designed to treat an illness and manage pain caused by the illness is blurred, making it challenging to define a set of guidelines for carrying out this directive. Therefore, the Centers for Medicare and Medicaid Services (CMS) have attempted to clarify the provision and payment guidelines.

Generally, hospice will still be responsible for providing treatments consistent with those provided under the hospice benefit, regardless of the cost of treatment. The hospice will not be expected to cover costs of curative treatments, or those specially designed to treat and cure the illness, using the same hospice-benefit per diem rate; rather, these services



will be billed separately. In all cases, the guidance can be summed up to say that both the state Medicaid agency and hospice should consider each case separately and with the input of the provider community to determine the best allocation of resources.

Additionally, Section 2302 has also caused many to question whether they must choose to elect or forfeit waiver services when receiving the hospice benefit. In short, this depends upon the services outlined by the waiver. Medicaid health plan benefits must be accessed and exhausted before waiver services are accessed. That said, there is no provision preventing a family from using both waiver services and hospice benefits if the services used are defined differently. Therefore, it is possible to use both the Medicaid hospice benefit and waiver services concurrently.

While the conditions of Section 2302 are still rather vague and no further guidance is expected from CMS, it is anticipated that each state will develop procedures and safeguards to ensure the proper allocation of resources and delivery of services, which are now legally required provisions of all Medicaid and Medicaid expansion programs, including Children's Health Insurance Programs.

If you or your loved ones have additional questions about arranging hospice care or how the law protects your child, please do not hesitate to contact Family Voices. We will be happy to assist you in learning your rights and ensuring you have access to all available resources.

For more information about the Affordable Care Act, please visit www.healthcare.gov.

To read Provider Questions and Answers from CMS regarding concurrent hospice and curative care services as outlined by Section 2302 of the ACA, visit www.nhpc.org/files/public/ChiPPS/Children_QA_CMS_Feb2011.pdf.

