

(6) Subject to the conditions set forth in this rule, a client may elect to receive hospice care during one or more of the following election periods:

- (a) an initial 90-day period;
- (b) a subsequent 90-day period; or
- (c) an unlimited number of subsequent 60-day periods.

R414-14A-7. Change in Hospice Provider.

(1) A client or representative may change, once in each election period, the designation of the particular hospice from which hospice care will be received.

(2) The change of the designated hospice is not a revocation of the election for the period in which it is made.

(3) To change the designation of hospice provider, the client must file, with the hospice provider from which care has been received and with the newly designated hospice provider, a statement that includes the following information:

- (a) the name of the hospice provider from which the client has received care;
 - (b) the name of the hospice provider from which the client plans to receive care; and
 - (c) the date the change is to be effective.
- (4) The client must file the change on or before the effective date.

R414-14A-8. Revocation and Re-election of Hospice Services.

(1) A client or legal representative may voluntarily revoke the client's election of hospice care at any time during an election period.

(2) To revoke the election of hospice care, the client or representative must file a statement with the hospice provider that includes the following information:

- (a) a signed statement that the client or representative revokes the client's election for Medicaid coverage of hospice care.
- (b) the date that the revocation is to be effective, which may not be earlier than the date that the revocation is made; and
- (c) an acknowledgment signed by the patient or the patient's representative that the patient will forfeit Medicaid hospice coverage for any remaining days in that election period.

(3) Upon revocation of the election of Medicaid coverage of hospice care for a particular election period, a client:

- (a) is no longer covered under Medicaid for hospice care;
- (b) resumes Medicaid coverage for the benefits waived under Section R414-14A-[6]9 (for adult clients); and
- (c) may at any time elect to receive hospice coverage for any other hospice election periods that he or she is eligible to receive.

(4) If an election has been revoked, the client or his representative [~~if the client is mentally incapacitated,~~] may at any time file an election in accordance with this rule for any other election period that is still available to the client.

(5) Hospice providers may not encourage adult clients to temporarily revoke hospice services solely for the purpose of avoiding financial responsibility for Medicaid services that have been waived at the time of hospice election as described in Section R414-14A-9.

(6) Hospice providers must send notification to the Department within ten calendar days that a client has revoked

hospice benefits. Notification must include a copy of the revocation statement signed by the client or the client's legal representative.

R414-14A-9. Rights Waived to Some Medicaid Services for Adult Clients.

(1) For the duration of an election for hospice care, an adult client waives all rights to Medicaid [~~to~~]for the following services:

(a) hospice care provided by a hospice other than the hospice designated by the client, unless provided under arrangements made by the designated hospice; and

(b) any Medicaid services that are related to the treatment of the terminal condition for which hospice care was elected or a related condition or are duplicative of hospice care except for services:

- (i) provided by the designated hospice;
- (ii) provided by another hospice under arrangements made by the designated hospice; and
- (iii) provided by the client's attending physician if the services provided are not otherwise covered by the payment made for hospice care.

(2) Medicaid services for illnesses or conditions not related to the client's terminal illness are not covered through the hospice program but are covered when provided by the appropriate provider.

R414-14A-10. Concurrent Care for Clients Under 21 Years of Age.

(1) For the duration of the election of hospice care, clients under 21 years of age may only receive hospice care which is provided by the designated hospice, or that has been provided under arrangements made by the designated hospice.

(2) Clients under 21 years of age who elect to receive Medicaid hospice care may also receive concurrent Medicaid State Plan treatment for the terminal illness and other related conditions.

(3) For life prolonging treatment rendered to clients under 21 years of age, Medicaid shall reimburse the appropriate Medicaid enrolled medical care providers directly through the usual and customary Medicaid billing procedures. Hospice providers are not responsible to reimburse medical care providers for life prolonging treatment rendered to hospice clients who are under 21 years of age.

(4) Each pediatric hospice provider shall develop a training curriculum to ensure that the hospice's interdisciplinary team members, including volunteers, are adequately trained to provide hospice care to clients who are under 21 years of age. All staff members and volunteers who provide pediatric hospice care must receive the training before they provide hospice care services, and at least annually thereafter. The training shall include the following pediatric specific elements:

- (a) Growth and development;
- (b) Pediatric pain and symptom management;
- (c) Loss, grief and bereavement for pediatric families and the child;
- (d) Communication with family, community and interdisciplinary team;
- (e) Psycho-social and spiritual care of children;
- (f) Coordination of care with the child's community.

(5) For pediatric care, the Hospice Program shall adopt the National Hospice and Palliative Care Organization's (NHPCO) Standards for Hospice Programs.

R414-14A-~~10~~11. Notice of Hospice Care in a Nursing Facility, ICF/~~MR~~ID, or Freestanding Inpatient Hospice Facility.

(1) The hospice provider must notify the Department at the time a Medicaid client residing in a Medicare certified nursing facility, a Medicaid~~[-]~~-certified ICF/~~MR~~ID, or a Medicare freestanding inpatient hospice facility elects the Medicaid hospice benefit or at the time a Medicaid client who has elected the Medicaid hospice benefit is admitted to a Medicare certified nursing facility, a Medicaid certified ICF/~~MR~~ID, or a Medicare freestanding inpatient hospice facility.

(2) The notification must include a prognosis of the time the client will require skilled nursing facility services under the hospice benefit.

(3) Except as provided in Section R414-14A-20, reimbursement for room and board begins no earlier than the date the hospice provider notifies the Department that the client has elected the Medicaid hospice benefit.

R414-14A-~~11~~12. Notice of Independent Attending Physician.

The hospice provider must notify the Department at the time a Medicaid client designates an attending physician who is not a hospice employee.

R414-14A-~~12~~13. Extended Hospice Care.

(1) Clients who accumulate 12 or more months of hospice benefits are subject to an independent utilization review by a physician with expertise in end-of-life and hospice care selected by the Department.

(2) If Medicare determines that a patient is no longer eligible for Medicare reimbursement for hospice services, the patient will no longer be eligible for Medicaid reimbursement for hospice services. Providers must immediately notify Medicaid upon learning of Medicare's determination. Medicaid reimbursement for hospice services will cease the day after Medicare notifies the hospice provider that the client is no longer eligible for hospice care.

R414-14A-~~13~~14. Provider Initiated Discharge from Hospice Care.

(1) The hospice provider may not initiate discharge of a patient from hospice care except in the following circumstances:

(a) the patient moves out of the hospice provider's geographic service area or transfers to another hospice provider by choice;

(b) the hospice determines that the patient is no longer terminally ill; or

(c) the hospice provider determines, under a policy set by the hospice for the purpose of addressing discharge for cause, that the patient's behavior (or the behavior of other persons in the patient's home) is disruptive, abusive, or uncooperative to the extent that delivery of care to the patient or the ability of the hospice to operate effectively is seriously impaired.

(2) The hospice provider must carry out the following activities before it seeks to discharge a patient for cause:

(a) advise the patient that a discharge for cause is being considered;

(b) make a diligent effort to resolve the problem that the patient's behavior or situation presents;

(c) ascertain that the discharge is not due to the patient's use of necessary hospice services; and

(d) document the problem and efforts to resolve the problem in the patient's medical record.

(3) Before discharging a patient for any reason listed in Subsection R414-14A-~~13~~14(1), the hospice provider must obtain a physician's written discharge order from the hospice provider's medical director. If a patient also has an attending physician, the hospice provider must consult the physician before discharge and the attending physician must include the review and decision in the discharge documentation.

(4) A client, upon discharge from the hospice during a particular election period, for reasons other than immediate transfer to another hospice:

(a) is no longer covered under Medicaid for hospice care;

(b) resumes Medicaid coverage of the benefits waived during the hospice coverage period; (for adult clients); and

(c) may at any time elect to receive hospice care if the client is again eligible to receive the benefit in the future.

(5) The hospice provider must have in place a discharge planning process that takes into account the prospect that a patient's condition might stabilize or otherwise change if that patient cannot continue to be certified as terminally ill. The discharge planning process must include planning for any necessary family counseling, patient education, or other services before the patient is discharged because the patient is no longer terminally ill.

R414-14A-~~14~~15. Hospice Room and Board Service.

If a client residing in a nursing facility, ICF/~~MR~~ID or a freestanding hospice inpatient unit elects hospice care, the hospice provider and the facility must have a written agreement under which the total care of the individual must be specified in a comprehensive service plan, the hospice provider is responsible for the professional management of the client's hospice care, and the facility agrees to provide room and board and services unrelated to the care of the terminal condition to the client. The agreement must include:

(1) identification of the services to be provided by each party and the method of care coordination to assure that all services are consistent with the hospice approach to care and are organized to achieve the outcomes defined by the hospice plan of care;

(2) a stipulation that Medicaid services may be provided only with the express authorization of the hospice;

(3) the manner in which the contracted services are coordinated, supervised and evaluated by the hospice provider;

(4) the delineation of the roles of the hospice provider and the facility in the admission process; needs assessment process, and the interdisciplinary team care conference and service planning process;

(5) requirements for documenting that services are furnished in accordance with the agreement;

(6) the qualifications of the personnel providing the services; and

(7) the billing and reimbursement process by which the nursing facility will bill the hospice provider for room and board and receive payment from the hospice provider.