



## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Medicare & Medicaid Services**

#### **42 CFR Part 418**

**[CMS-1851-F]**

**RIN 0938-AV78**

### **Medicare Program; FY 2027 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Program Requirements**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Final rule.

**SUMMARY:** This final rule updates the hospice wage index, payment rates, and aggregate cap amount for fiscal year 2027. This final rule also includes an analysis of Medicare non-hospice spending, including details regarding a hospice service and spending variation index, and finalizes the requirement that hospices provide the hospice election statement addendum to all Medicare beneficiaries at the time of hospice election. Additionally, this rule finalizes conforming changes to discharge from hospice care regulations and changes to the face-to-face encounter regulations. This final rule also includes a summary of comments received on our requests for information regarding community-based palliative care; the construction of a hospice specific wage index; and the overlap between hospice and medical aid in dying laws. Finally, this rule finalizes changes to the Hospice Quality Reporting Program.

**DATES:** These regulations are effective on October 1, 2026.

#### **FOR FURTHER INFORMATION CONTACT:**

For general questions about hospice payment policy, send your inquiry via email to: [hospicepolicy@cms.hhs.gov](mailto:hospicepolicy@cms.hhs.gov).

For questions regarding the CAHPS® Hospice Survey, contact Lauren Fuentes at (410) 786-2290.

For questions regarding the hospice quality reporting program, contact Jermama Keys at (410) 786-7778.

## **SUPPLEMENTARY INFORMATION:**

### **I. Executive Summary**

#### *A. Purpose*

This final rule updates the hospice wage index, payment rates, and cap amount for Fiscal Year (FY) 2027 as required under section 1814(i) of the Social Security Act (the Act). This final rule also includes an analysis of Medicare non-hospice spending under a hospice election, including details regarding a hospice spending variation index (SSVI). The SSVI includes a scoring system that monitors nine claims-based metrics in order to comprehensively assess hospice services and yield a provider ranking that can be utilized by beneficiaries to make more informed health decisions and support program integrity efforts. This rule also finalizes the requirement that hospices provide the hospice election statement addendum to all Medicare beneficiaries at the time of hospice election. Additionally, this rule finalizes conforming regulation text changes to allow a physician designee or physician member of the interdisciplinary group (IDG), in addition to the hospice medical director, to discharge a patient from hospice care. This final rule also finalizes conforming regulation text changes to the hospice telehealth face-to-face policy for the sole purpose of hospice recertification codified at § 418.22(a)(4)(ii) to align with the end date and new requirement to include modifiers or codes for such encounters as set forth in statute at section 1814(a)(7)(D)(i)(II) of the Act, as well as a subclause that prohibits the use of telehealth to conduct the face-to-face encounter in specific situations related to moratoriums (section 1866(j)(7) of the Act), enhanced oversight (section 1866(j)(3) of the Act), or enrollment status (section 1866(j) of the Act). This final rule also includes summaries of comments received on the RFIs regarding community-based palliative

care; the construction of a hospice specific wage index; and the overlap between hospice and Medical Aid in Dying (MAID) laws. Finally, this rule finalizes the addition of an icon to the Medicare.gov Compare Tool as part of the Hospice Quality Reporting Program (HQRP).

#### *B. Summary of the Major Provisions*

Section III.A.1. of this final rule includes updates to the hospice wage index and makes the application of the updated wage data budget neutral for all four levels of hospice care.

Section III.A.2. of this final rule includes the FY 2027 hospice payment update percentage.

Section III.A.3. of this final rule includes the FY 2027 hospice payment rates.

Section III.A.4. of this final rule updates the hospice cap amount for FY 2027 by the hospice payment update percentage.

Section III.B.1. of this final rule includes analysis of Medicare non-hospice spending under a hospice election.

Section III.B.2. of this final rule includes details regarding a hospice SSVI.

Section III.C. of this final rule makes the hospice election statement addendum mandatory for all hospice elections.

Section III.D.1. of this final rule clarifies a regulation text change at § 418.26(b) that aligns the Conditions of Participation (CoPs) and payment regulations regarding who may discharge a patient from hospice care.

Section III.D.2. of this final rule includes technical regulation text changes at § 418.22(a)(4)(ii) to extend the end date of the telehealth allowance for the face-to-face encounter until December 31, 2027, as set forth at section 1814(a)(7)(D)(i)(II) of the Act, and to include a new requirement to include modifiers or codes for such encounters, and prohibit the use of telehealth to conduct the face-to-face encounter in specific situations related to moratoriums (section 1866(j)(7) of the Act), enhanced oversight (section 1866(j)(3) of the Act), or enrollment status (section 1866(j) of the Act).

Section III.E.1. of this final rule includes a summary of comments on our RFI on ways to enhance the provision of community-based palliative care outside of hospice care.

Section III.E.2. of this final rule includes a summary of comments on our RFI regarding the construction of a hospice specific wage index.

Section III.E.3. of this final rule includes a summary of comments on our RFI on Medical Aid in Dying laws.

Section III.F. of this final rule provides updates to the HQRP to include public reporting timeframes, future measures and adds a data submission icon to the Care Compare tool.

### *C. Summary of Impacts*

The overall economic impact of this final rule is estimated to be \$755 million in increased payments to hospices in FY 2027.

## **II. Background**

### *A. Hospice Care*

Hospice care is a comprehensive, holistic approach to treatment that recognizes the impending death of a terminally ill individual and warrants a change in the focus from curative care to palliative care for relief of pain and for symptom management. Medicare regulations define “palliative care” as patient and family-centered care that optimizes quality of life by anticipating, preventing, and treating suffering. Palliative care throughout the continuum of illness involves addressing physical, intellectual, emotional, social, and spiritual needs and to facilitate patient autonomy, access to information, and choice (42 CFR 418.3). Palliative care is at the core of hospice philosophy and care practices and is a critical component of the Medicare hospice benefit.

The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, nursing, social, psychological, emotional, and spiritual services through a collaboration of professionals and other caregivers, with the goal of making the beneficiary as physically and emotionally comfortable as possible. Hospice is compassionate beneficiary- and family/caregiver-centered care for those who are terminally ill.

As referenced in our regulations at § 418.22(c)(1), to be certified for Medicare hospice services, the patient’s attending physician (if any) and the hospice medical director, physician designee, or physician member of the hospice interdisciplinary group must certify that the individual is “terminally ill,” as defined in section 1861(dd)(3)(A) of the Act and our regulations at § 418.3; that is, the individual has a medical prognosis that the individual’s life expectancy is 6 months or less if the illness runs its normal course (§ 418.22(b)(1)). The regulations at § 418.22(b)(2) require that clinical information and other documentation that support the medical prognosis accompany the certification and be filed in the medical record with the written certification. The regulations at § 418.22(b)(3) require that the certification and recertification

forms, or an addendum to the certification and recertification forms, include a brief narrative explanation of the clinical findings that supports a life expectancy of 6 months or less.

Under the Medicare hospice benefit, the election of hospice care is a patient choice, and once a terminally ill patient elects to receive hospice care, a hospice interdisciplinary group is essential in the seamless provision of primarily home-based services. The hospice interdisciplinary group works with the beneficiary, family, and caregivers to develop a coordinated, comprehensive care plan; reduce unnecessary diagnostics or ineffective therapies; and maintain ongoing communication with individuals and their families about changes in their condition. The beneficiary's care plan will shift over time to meet the changing needs of the individual, family, and caregiver(s) as the individual approaches the end of life.

If, in the judgment of the hospice interdisciplinary group (as specified at § 418.56(a)(1)), which includes the hospice physician, the patient's symptoms cannot be effectively managed at home, then the patient is eligible for general inpatient care (GIP), a more medically intense level of care. GIP must be provided in a Medicare-certified hospice freestanding facility, skilled nursing facility, or hospital. GIP is provided to ensure that any new or worsening symptoms are intensively addressed so that the beneficiary can return home for hospice care (routine home care) (RHC). Limited, short-term, intermittent, inpatient respite care (IRC) is also available because of the absence or need for relief of the family or other caregivers. Additionally, an individual can receive continuous home care (CHC) during a period of crisis in which an individual requires continuous care to achieve palliation or management of acute medical symptoms so that the individual can remain at home. CHC may be covered for as much as 24 hours a day, and these periods must be predominantly nursing care, in accordance with the regulations at § 418.204. A minimum of 8 hours of nursing care or nursing and aide care must be furnished on a particular day to qualify for the CHC rate (§ 418.302(e)(4)).

Hospices covered by this rule must comply with applicable civil rights laws, including section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, September 26, 1973), the

Americans with Disabilities Act (Pub. L. 101-336, July 26, 1990), and section 1557 of the Patient Protection and Affordable Care Act (Pub. L. 111-148, March 23, 2010), which prohibit covered entities from discriminating against individuals based on disability. This includes requiring covered entities to take appropriate steps to ensure that communication with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others. Covered entities must also provide appropriate auxiliary aids and services when necessary to afford qualified individuals with disabilities, including applicants, participants, beneficiaries, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a covered entity.<sup>1</sup>

Covered entities must also take reasonable steps to provide meaningful access to individuals with limited English proficiency. Language assistance services such as the provision of interpreter and translation services must be provided free of charge.

#### *B. Services Covered by the Medicare Hospice Benefit*

Coverage under the Medicare hospice benefit requires that hospice services must be reasonable and necessary for the palliation and management of the terminal illness and related conditions. Section 1861(dd)(1) of the Act establishes the services that are to be rendered by a Medicare-certified hospice program. These covered services include: nursing care; physical therapy; occupational therapy; speech-language pathology services; medical social services; home health aide services (called hospice aide services); physician's services; homemaker services; medical supplies (including drugs and biologicals); medical appliances; counseling services (including dietary counseling); short-term inpatient care in a hospital, nursing facility, or hospice inpatient facility (including both respite care and procedures necessary for pain control and acute and chronic symptom management); continuous home care during periods of crisis,

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<sup>1</sup> Hospices receiving Medicare Part A funds or other Federal financial assistance from the Department are also subject to additional Federal civil rights laws, including the Age Discrimination Act, and are subject to conscience and religious freedom laws where applicable. CMS must ensure that pursuant to 42 U.S.C. 1396a(w) facilities provide written information to residents of their rights to have and make advance directives and that care facilities must respect the conscience rights of providers and healthcare workers in caring for patients with respect to advance directives and under 42 U.S.C. 1396a(w)(3).

and only as necessary to maintain the terminally ill individual at home; and any other item or service which is specified in the plan of care and for which payment may otherwise be made under Medicare, in accordance with Title XVIII of the Act.

Section 1814(a)(7)(B) of the Act requires that a written plan for providing hospice care to a beneficiary who is a hospice patient be established before such care is provided by, or under arrangements made by, the hospice program; and that the written plan be periodically reviewed by the beneficiary's attending physician (if any), the hospice medical director, and an interdisciplinary group (section 1861(dd)(2)(B) of the Act). The services offered under the Medicare hospice benefit must be available to beneficiaries as needed, 24 hours a day, 7 days a week (section 1861(dd)(2)(A)(i) of the Act).

Upon the implementation of the hospice benefit, the Congress also expected hospices to continue to use volunteer services, although Medicare does not pay for these volunteer services (section 1861(dd)(2)(E) of the Act). As stated in the Health Care Financing Administration's (now Centers for Medicare & Medicaid Services (CMS)) proposed rule: Medicare Program; Hospice Care (48 FR 38149), the hospice must have an interdisciplinary group composed of paid hospice employees as well as hospice volunteers, and that "the hospice benefit with the resulting Medicare reimbursement is not intended to diminish the voluntary spirit of hospices." This expectation supports the hospice philosophy of community based, holistic, comprehensive, and compassionate end of life care.

### *C. Medicare Payment for Hospice Care*

Sections 1812(d), 1813(a)(4), 1814(a)(7), 1814(i), and 1861(dd) of the Act, and the regulations in 42 CFR part 418, establish eligibility requirements, payment standards and procedures; define covered services; and delineate the conditions a hospice must meet to be approved for participation in the Medicare program. Part 418, subpart G, provides for a per diem payment based on one of four prospectively determined rate categories of hospice care (RHC, CHC, IRC, and GIP), based on each day a qualified Medicare beneficiary is under hospice care

(once the individual has elected the benefit). This per diem payment is meant to cover all hospice services and items needed to manage the beneficiary's care, as required by section 1861(dd)(1) of the Act.

While payment made to hospices is to cover all items, services, and drugs for the palliation and management of the terminal illness and related conditions, Federal funds cannot be used for prohibited activities, even in the context of a per diem payment. For example, hospices are prohibited from playing a role in medical aid in dying (MAID) where such practices have been legalized in certain States. The Assisted Suicide Funding Restriction Act of 1997 (Pub. L. 105-12, April 30, 1997) prohibits the use of Federal funds to provide or pay for any health care item or service or health benefit coverage for the purpose of causing, or assisting to cause, the death of any individual including "mercy killing, euthanasia, or assisted suicide." However, the prohibition does not pertain to the provision of an item or service for the purpose of alleviating pain or discomfort, even if such use may increase the risk of death, so long as the item or service is not furnished for the specific purpose of causing or accelerating death.

The Medicare hospice benefit has been revised and refined since its implementation after various Acts of Congress and Medicare rules. For a historical list of changes and regulatory actions, we refer readers to the background section of previous Hospice Wage Index and Payment Rate Update rules.<sup>2</sup>

### **III. Provisions of the Final Rule**

#### *A. FY 2027 Hospice Wage Index and Rate Update*

##### **1. FY 2027 Hospice Wage Index**

###### **a. Background**

The hospice wage index is used to adjust payment rates for hospices under the Medicare program to reflect local differences in area wage levels, based on the location where services are

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<sup>2</sup> Hospice Regulations and Notices. <https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-regulations-and-notices>.

furnished. The hospice wage index utilizes the wage adjustment factors used by the Secretary for purposes of section 1886(d)(3)(E) of the Act for hospital wage adjustments. Our regulations at § 418.306(c) require each labor market to be established using the most current hospital wage data available, including any changes made by the Office of Management and Budget (OMB) to Metropolitan Statistical Area (MSA) definitions.

In general, OMB issues major revisions to statistical areas every 10 years based on the results of the decennial census. On July 21, 2023, OMB issued Bulletin No. 23–01, which updated and superseded OMB Bulletin No. 20–01, issued on March 6, 2020. OMB Bulletin No. 23–01 established revised delineations for the MSAs, Micropolitan Statistical Areas, Combined Statistical Areas (CSAs), and Metropolitan Divisions, collectively referred to as Core Based Statistical Areas (CBSAs). According to OMB, the delineations reflect the 2020 Standards for Delineating Core Based Statistical Areas (the “2020 Standards”), which appeared in the **Federal Register** (86 FR 37770 through 37778) on July 16, 2021, and application of those standards to Census Bureau population and journey-to-work data (for example, 2020 Decennial Census, American Community Survey, and Census Population Estimates Program data). A copy of OMB Bulletin No. 23–01 is available online at <https://www.whitehouse.gov/wp-content/uploads/2023/07/OMB-Bulletin-23-01.pdf>.

The July 21, 2023 OMB Bulletin No. 23–01 contained a number of significant changes. For example, it designated new CBSAs, split some existing CBSAs, and changed some urban counties to rural and some rural counties to urban. We believe it is important for the hospice wage index to use the latest OMB delineations available to maintain the most accurate and up-to-date payment system, reflecting the reality of population shifts and labor market conditions. We further believe that using the most current OMB delineations increases the integrity of the hospice wage index by creating a more accurate representation of geographic variation in wage levels. Therefore, in the FY 2025 Hospice Wage Index and Rate Update final rule (89 FR 64208 through 64224), we finalized the implementation of new labor market areas based on the

revisions in OMB Bulletin No. 23-01 beginning in FY 2025.

b. Hospice Floor and 5 Percent Cap Policies

As described in the August 8, 1997 Hospice Wage Index final rule (62 FR 42860), the pre-floor and pre-reclassified hospital wage index is used as the raw wage index for the hospice benefit. These raw wage index values are subject to application of the hospice floor to compute the hospice wage index used to determine payments to hospices. The pre-floor, pre-reclassified hospital wage index values below 0.8000 are adjusted by a 15 percent increase subject to a maximum wage index value of 0.8000. For example, if CBSA “A” has a pre-floor, pre-reclassified hospital wage index value of 0.3994, we would multiply 0.3994 by 1.15, which equals 0.4593. Since 0.4593 is not greater than 0.8000, the CBSA “A’s” hospice wage index would be 0.4593. In another example, if CBSA “B” has a pre-floor, pre-reclassified hospital wage index value of 0.7440, we would multiply 0.7440 by 1.15, which equals 0.8556. Because 0.8556 is greater than 0.8000, CBSA “B’s” hospice wage index would be 0.8000.

In the FY 2023 Hospice Wage Index and Rate Update final rule (87 FR 45673), we finalized for FY 2023 and subsequent years the application of a permanent 5 percent cap on any decrease to a geographic area’s wage index from its wage index in the prior year, regardless of the circumstances causing the decline, so that a geographic area’s wage index would not be less than 95 percent of its wage index calculated in the prior FY. When calculating the 5 percent cap on wage index decreases, we start with the current FY’s pre-floor, pre-reclassification hospital wage index value for a CBSA or statewide rural area, and if that wage index value is below 0.8000, we apply the hospice floor as discussed previously in this section of the proposed rule. Next, we compare the current FY’s wage index value after the application of the hospice floor to the final wage index value from the previous FY. If the current FY’s wage index value is less than 95 percent of the previous year’s wage index value, the 5 percent cap on wage index decreases would be applied and the final wage index value would be set equal to 95 percent of the previous FY’s wage index value. If the 5 percent cap is applied in one FY, then in the

subsequent FY, that year's pre-floor, pre-reclassification hospital wage index would be used as the starting wage index value and adjusted by the hospice floor. The hospice floor adjusted wage index value would be compared to the previous FY's wage index which had the 5 percent cap applied. If the hospice floor adjusted wage index value for that FY is less than 95 percent of the capped wage index from the previous year, then the 5 percent cap would be applied again, and the final wage index value would be 95 percent of the capped wage index from the previous FY. Using the example previously stated, if CBSA "A" has a pre-floor, pre-reclassified hospital wage index value of 0.3994, we would multiply 0.3994 by 1.15, which equals 0.4593. If CBSA "A" had a wage index value of 0.6200 in the previous FY, then we would compare 0.4593 to the previous FY's wage index value. Since 0.4593 is less than 95 percent of 0.6200, then CBSA "A"'s hospice wage index would be 0.5890, which is equal to 95 percent of the previous FY's wage index value of 0.6200. In the next FY, the updated wage index value would be compared to the wage index value of 0.5890.

Previously, this 5 percent cap methodology was applied to all the counties that make up a CBSA or rural area. However, beginning in FY 2025, we finalized a policy that the 5 percent cap methodology also be applied to individual counties. In the FY 2025 Hospice Wage Index and Rate Update final rule (89 FR 64202), as a transition to the adoption of the revised delineations from OMB Bulletin No. 23-01, we finalized a policy applying the permanent 5 percent cap on wage index decreases at the county level. Specifically, counties that were impacted by the revised designations beginning in FY 2025 would receive a 5 percent cap on any decrease in a geographic area's wage index value from the wage index value from the prior FY. Also, beginning in FY 2025, counties that have a different wage index value than the CBSA or rural area into which they are designated due to the application of the 5 percent cap (including redesignated counties that will receive the 5 percent cap and redesignated counties that move into a CBSA or rural area where all other constituent counties receive the 5 percent cap) would use a wage index transition code. These special codes are five digits in length and begin with "50".

The 50XXX wage index transition codes are used only in specific counties. Counties located in CBSAs and rural areas that do not correspond to a different transition wage index value will still use the CBSA number.

Finally, we finalized a policy to apply the 5 percent cap to a county that corresponds to a different wage index value than the wage index value assigned to the CBSA or rural area in which they are designated due to a delineation change until the county's new wage index is more than 95 percent of the wage index from the previous FY. To capture the correct wage index value, the county will continue to use the assigned 50XXX transition code until the county's wage index value calculated for that FY using the new OMB delineations is not less than 95 percent of the county's capped wage index from the previous FY. Once the county's wage index value calculated using the new OMB delineation is higher than 95 percent of their previous FY's wage index, the county will no longer use their assigned transition code. Instead, these counties will use the CBSA or rural county code of the area they were redesignated into based on OMB Bulletin No. 23–01. More information regarding these special codes can be found in the FY 2025 Hospice Wage Index and Rate Update final rule (89 FR 64220 through 64224). Additionally, the list of counties that must use a 50XXX transition code for a given FY can be found as a separate tab in the hospice wage index file for that FY available on the CMS website at <https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-wage-index>.

While we did not propose any changes to the 5 percent cap policy for FY 2027, we did receive a few comments on these finalized policies. A summary of the comments and our responses to those comments are as follows:

*Comment:* A few commenters expressed support for the finalized 5 percent cap policy.

*Response:* We thank the commenters for their support.

*Comment:* Other commenters recommended changes to the finalized cap percentage. A commenter recommended that CMS limit any reductions in wage index adjustments to an amount equal to or less than the market basket update. Alternatively, the commenter

recommended that CMS only permit upward adjustments in CBSA wage index values. Another commenter recommended lowering the cap to 2.5 or 3 percent in order to protect hospice providers who are already operating with negative or “razor-thin” operating margins.

*Response:* We appreciate the commenters’ recommendations; however, these comments are outside the scope of the proposed rule as we did not propose any changes to the wage index cap. Additionally, we continue to believe that a 5 percent cap on wage index decreases is sufficient as it provides a degree of predictability in payment changes for providers and allows providers time to adjust to any significant decreases they may face year to year. Also, while we appreciate the concerns raised by commenters on the financial impact of wage index decreases, we believe that 5 percent is a reasonable level for the cap because it effectively mitigates any significant decreases in a hospice’s wage index for future FYs, while still balancing the importance of ensuring that area wage index values accurately reflect relative differences in area wage levels. Therefore, we do not believe that it would be appropriate to lower the cap percentage or to only permit upward wage index adjustments.

*Final Decision:* We did not propose any changes to finalized hospice floor and 5 percent cap policies. Therefore, the FY 2027 hospice wage index will continue to include the hospice floor as well as the 5 percent cap on wage index decreases. For FY 2027, the 5 percent cap on wage index decreases will also continue to be calculated at the county level. While some counties that required a transition code for FY 2025 and FY 2026 will continue to use the same transition code for FY 2027, other counties that previously required a transition code will no longer require a transition code in FY 2027. These counties will use the CBSA or rural county code of the area they were redesignated into based on OMB Bulletin No. 23-01. More information regarding these special codes can be found in the FY 2025 Hospice Wage Index and Rate Update final rule (89 FR 64220 through 64224). Additionally, the list of counties that must use a 50XXX transition code for a given FY can be found as a separate tab in the hospice wage index file for that FY available on the CMS website at

c. FY 2027 Hospice Wage Index

In the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484), we finalized a policy to use the current FY's hospital wage index data to calculate the hospice wage index values. For FY 2027, we proposed that the hospice wage index would be based on the FY 2027 hospital pre-floor, pre-reclassified wage index for hospital cost reporting periods beginning on or after October 1, 2022 and before October 1, 2023 (FY 2023 cost report data). We noted that the FY 2027 hospice wage index would not consider any geographic reclassification of hospitals, including those in accordance with sections 1886(d)(8)(B) or 1886(d)(10) of the Act. The regulations that govern hospice payment do not provide a mechanism for allowing hospices to seek geographic reclassification or to utilize the rural floor provisions that exist for Inpatient Prospective Payment System (IPPS) hospitals. The reclassification provision found in section 1886(d)(10) of the Act is specific to hospitals. Section 4410(a) of the Balanced Budget Act (BBA) of 1997 (Pub. L. 105–33, August 5, 1997) provides that the area wage index applicable to any hospital located in an urban area of a State may not be less than the area wage index applicable to hospitals located in rural areas in that State. This rural floor provision is also specific to hospitals. Because the reclassification and the hospital rural floor policies apply to hospitals only, and not to hospices, we continue to believe the use of the pre-floor and pre-reclassified hospital wage index is the most appropriate adjustment to the labor portion of the hospice payment rates. This position is longstanding and consistent with other Medicare payment systems, for example, the skilled nursing facility prospective payment system (SNF PPS), the inpatient rehabilitation facility prospective payment system (IRF PPS), and the home health prospective payment system (HH PPS). However, the hospice wage index does include the hospice floor, which is applicable to all CBSAs, both rural and urban. The hospice floor adjusts pre-floor, pre-reclassified hospital wage index values below 0.8000 by a 15 percent increase subject to a maximum wage index value of 0.8000. We proposed that the FY 2027

hospice wage index would continue to include the hospice floor as well as the 5 percent cap on wage index decreases.

We noted that the appropriate FY 2027 wage index value would be applied to the labor portion of the hospice payment rate based on the geographic area in which the beneficiary resides when receiving RHC or CHC. We also noted that the appropriate FY 2027 wage index value would be applied to the labor portion of the payment rate based on the geographic location of the facility for beneficiaries receiving GIP or IRC.

There exist some geographic areas where there are no hospitals, and thus, no hospital wage data on which to base the calculation of the hospice wage index. In the FY 2006 Hospice Wage Index and Rate Update final rule (70 FR 45135), we adopted the policy that, for urban labor markets without a hospital from which hospital wage index data could be derived, all the CBSAs within the State would be used to calculate a statewide urban average pre-floor, pre-reclassified hospital wage index value to use as a reasonable proxy for these areas. For FY 2027, the only CBSA without a hospital from which hospital wage data can be derived is 25980, Hinesville, Georgia. As such, we proposed that the FY 2027 hospice wage index for Hinesville, Georgia would be 0.8917. Based on updated wage index data, the final FY 2027 hospice wage index value for Hinesville, Georgia is 0.8915.

In the FY 2008 Hospice Wage Index and Rate Update final rule (72 FR 50217 through 50218), we implemented a methodology to update the hospice wage index for rural areas without hospital wage data. In cases where there is a rural area without rural hospital wage data, we use the average pre-floor, pre-reclassified hospital wage index data from all contiguous CBSAs, to represent a reasonable proxy for the rural area. The term “contiguous” means sharing a border (72 FR 50217). In the FY 2025 Hospice Wage Index and Rate Update final rule (89 FR 64207), as part of our adoption of the revised OMB delineations, rural North Dakota became a rural area without a hospital from which hospital wage data can be derived. Therefore, to calculate the proposed FY 2027 wage index for rural area 99935, North Dakota, we used as a proxy the

average pre-floor, pre-reclassified hospital wage data (updated by the hospice floor and 5 percent cap) from the contiguous CBSAs: CBSA 13900-Bismark, ND, CBSA 22020-Fargo, ND-MN, CBSA 24220-Grand Forks, ND-MN and CBSA 33500, Minot, ND, which would result in a proposed FY 2027 hospice wage index of 0.8299 for rural North Dakota. Based on updated wage index data, the final FY 2027 hospice wage index value for rural North Dakota is 0.8297.

Additionally, in the FY 2026 Hospice Wage Index and Rate Update final rule (90 FR 37410), using our established methodology for rural areas with no hospitals, we finalized a policy that hospices that provide services in the Northern Mariana Islands and American Samoa should use CBSA 99965 (Guam) and should receive the wage index assigned to CBSA 99965 (Guam) of 0.9611. Previously, the only rural area without a hospital from which hospital wage data could be derived was in Puerto Rico. However, for rural Puerto Rico, we did not apply this methodology due to the distinct economic circumstances that exist there (for example, due to the close proximity of almost all of Puerto Rico's various urban areas to non-urban areas, this methodology would produce a wage index for rural Puerto Rico that is higher than half of its urban areas). Instead, we used the most recent wage index previously available for that area, which was 0.4047, subsequently adjusted by the hospice floor for an adjusted wage index of 0.4654. For FY 2025, we noted as part of our adoption of the revised OMB delineations, there is now a hospital in rural Puerto Rico from which hospital wage data can be derived. Therefore, we finalized a wage index for rural Puerto Rico based on the hospital wage data for the area instead of the previously available pre-hospice floor wage index of 0.4047, which equaled an adjusted wage index value of 0.4654.

The proposed FY 2027 pre-hospice floor unadjusted wage index for rural Puerto Rico was 0.2577 subsequently adjusted by the hospice floor to equal 0.2964. Because 0.2964 is more than a 5 percent decline in the FY 2026 wage index, the adjusted proposed FY 2027 wage index with the 5 percent cap applied would equal 0.95 multiplied by 0.4200 (that is, the FY 2026 wage index with 5 percent cap), which would result in a proposed FY 2027 wage index value of

0.3990. Based on updated wage index data, the final FY 2027 pre-hospice floor unadjusted wage index for rural Puerto Rico is 0.2572 subsequently adjusted by the hospice floor to equal 0.2962. Because 0.2962 is more than a 5 percent decline from the FY 2026 wage index, the adjusted FY 2027 wage index for rural Puerto Rico with the 5 percent cap applied would equal 0.95 multiplied by 0.4200 (that is, the FY 2026 wage index with 5 percent cap), which results in a final FY 2027 wage index value of 0.3990.

The hospice wage index applicable for FY 2027 (October 1, 2026 through September 30, 2027) is available on the Hospice Regulations and Notices webpage at <https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-regulations-and-notices> and the Hospice Wage Index webpage located at <https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-wage-index>.

We received several comments on the proposed FY 2027 hospice wage index. A summary of the comments and our responses to those comments are as follows:

*Comment:* Commenters broadly supported the concept of updating the hospice wage index but opposed the current hospital-based methodology as fundamentally misaligned with hospice labor markets. Multiple commenters argued that basing hospice wages on acute care hospital cost report data fails to capture hospice-specific costs such as clinician travel, home-based care delivery, and a workforce mix dominated by nurses, social workers, and aides rather than hospital occupational categories.

A few commenters expressed concern that hospice providers are unable to benefit from IPPS hospital wage index policies such as geographic reclassification and the rural floor. A commenter recommended that CMS develop a hospice-specific geographic reclassification pathway.

Another commenter recommended several smoothing methodologies that better reflect shared labor markets and reduce artificial payment cliffs such as regional rural smoothing across contiguous States; blended wage index methodologies that limit extreme variation unsupported

by labor cost data; and transition policies that protect access to care and workforce stability during wage index reform.

*Response:* We appreciate the commenters' concerns related to the FY 2027 hospice wage index and thank the commenters for their recommendations. While we did not propose any changes to the FY 2027 hospice wage index methodology in the proposed rule, we did request information on changes to the hospice wage index methodology and may consider these recommendations and the comments received on the RFI in future rulemaking. A discussion of the comments received on the RFI for a new hospice specific wage index can be found in section III.E.2. of this final rule.

*Comment:* A commenter recommended technical improvements to the Wage Index file. This commenter requested a separate column in the Transition Codes tab of the final Wage Index file that distinguishes those counties that completed their transition in a prior FY from those newly entering or continuing transition in FY 2027. The commenter stated that the addition of this column to the file would help EHR developers and hospice billing staff determine, from the FY 2027 file alone, which county wage index values reflect a completed transition versus an ongoing one.

*Response:* We thank the commenter for the recommendation. We have updated the FY 2027 Wage Index File with a new column labeled "Transition Code Status". This column outlines whether the transition code should continue to be used for FY 2027 or the FY that the code was phased out.

*Final Decision:* After consideration of public comments, we are finalizing our proposal to use the FY 2027 pre-floor, pre-reclassified hospital wage index data as the basis for the FY 2027 hospice wage index. The wage index applicable for FY 2027 is available on our website at <https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-wage-index>. The hospice wage index for FY 2027 is effective October 1, 2026, through September 30, 2027.

## 2. FY 2027 Hospice Payment Update Percentage

Section 4441(a) of the BBA of 1997 amended section 1814(i)(1)(C)(ii)(VI) of the Act to establish updates to hospice rates for FYs 1998 through 2002. Hospice rates were to be updated by a factor equal to the inpatient hospital market basket percentage increase set out under section 1886(b)(3)(B)(iii) of the Act, minus one percentage point. Payment rates for FYs since 2002 have been updated as required by section 1814(i)(1)(C)(ii)(VII) of the Act, which states that the update to the payment rates for subsequent FYs must be the inpatient hospital market basket percentage increase for that FY. In the FY 2022 IPPS/LTCH PPS final rule (86 FR 45194 through 45204), we finalized the rebased and revised IPPS market basket to reflect a 2018 base year. In the FY 2026 IPPS/LTCH PPS final rule (90 FR 36859 through 36866), we finalized the rebased and revised IPPS market basket to reflect a 2023 base year, to begin in FY 2026.

Section 3401(g) of the Affordable Care Act mandated that, starting with FY 2013 (and in subsequent FYs), the hospice payment update percentage be annually reduced by changes in economy-wide productivity as specified in section 1886(b)(3)(B)(xi)(II) of the Act. The Act defines the productivity adjustment to be equal to the 10-year moving average of changes in annual economy-wide private nonfarm business multifactor productivity as projected by the Secretary for the 10-year period ending with the applicable FY, year, cost reporting period, or other annual period (the “productivity adjustment”). The United States Department of Labor’s Bureau of Labor Statistics (BLS) publishes the official measures of productivity for the United States economy. The productivity measure referenced in section 1886(b)(3)(B)(xi)(II) of the Act is published by BLS as private nonfarm business total factor productivity (TFP) (previously referred to as multifactor productivity).<sup>3</sup> We refer readers to <https://www.bls.gov/> productivity for the BLS historical published TFP data. A complete description of IHS Global Inc.’s (IGIs) TFP projection methodology is available on the CMS website at <https://www.cms.gov/data-research/statistics-trends-and-reports/medicare-program-rates-statistics/market-basket-research-and-information>.

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<sup>3</sup> <https://www.bls.gov/productivity/notices/2021/mfp-to-tfp-term-change.htm>.

Consistent with our historical practice, we estimate the market basket percentage increase, and the productivity adjustment based on IGI's forecast, using the most recent available data. The proposed hospice payment update percentage for FY 2027 was based on the most recent estimate of the inpatient hospital market basket (based on IGI's fourth quarter 2025 forecast). Due to the requirements at sections 1886(b)(3)(B)(xi)(II) and 1814(i)(1)(C)(v) of the Act, the proposed inpatient hospital market basket percentage increase for FY 2027 of 3.2 percent was required to be reduced by a productivity adjustment as mandated by section 3401(g) of the Affordable Care Act. The proposed productivity adjustment for FY 2027 was 0.8 percentage point (based on IGI's fourth quarter 2025 forecast). Therefore, the proposed hospice payment update percentage for FY 2027 was 2.4 percent. We also proposed that if more recent data became available after the publication of the proposed rule and before the publication of this final rule (for example, a more recent estimate of the inpatient hospital market basket percentage increase or productivity adjustment), we would use such data, if appropriate, to determine the hospice payment update percentage in the FY 2027 Hospice Wage Index and Rate Update final rule.

In the FY 2022 Hospice Wage Index and Rate Update final rule (86 FR 42532), we rebased and revised the labor shares for RHC, CHC, GIP, and IRC using Medicare cost report data for freestanding hospices (CMS Form 1984-14, OMB Control Number 0938-0758) from 2018. The current labor portion of the payment rates are: RHC, 66.0 percent; CHC, 75.2 percent; GIP, 63.5 percent; and IRC, 61.0 percent. The non-labor portion is equal to 100 percent minus the labor portion for each level of care. The non-labor portion of the payment rates are as follows: RHC, 34.0 percent; CHC, 24.8 percent; GIP, 36.5 percent; and IRC, 39.0 percent.

We received public comments on our proposal for the FY 2027 hospice payment update percentage. The following is a summary of the comments we received and our responses.

*Comment:* Numerous commenters, including national associations, State hospice associations, large health systems, and individual providers, expressed strong concerns that the

proposed 2.4 percent FY 2027 hospice payment update is insufficient to keep pace with the actual cost of delivering high-quality hospice care. Commenters specifically stated that this proposed update would not sufficiently account for the cost pressures, including rising labor costs, transportation expenses, and medical supply inflation. Commenters stated they continue to grapple with a healthcare workforce shortage causing intense competition for skilled staff, including nurses, social workers, aides, and other professionals, driving wages upward. Commenters referenced the BLS data which indicate that the Employment Cost Index (ECI) for Compensation for Healthcare and Social Assistance increased by 4 percent on average over the most recent year (12 months ending March 2026). Commenters also raised concerns about the impact of rapidly increasing gas prices on transportation costs, particularly for rural and nonprofit hospices that they stated have margins that are extremely limited and at times negative.

A commenter also stated that the hospice Medicare per diem payment increased approximately 16.1 percent from 2018 through the proposed FY 2027 rates while general inflation as measured by the Consumer Price Index (CPI) increased approximately 28.3 percent. The commenter acknowledged that the CPI is not a hospice-specific cost index, but stated it illustrates the broader inflationary pressure facing the hospice labor and transportation intensive model of care. Several commenters expressed that inadequately funding hospice services risks access for vulnerable Medicare beneficiaries, especially in rural and underserved communities.

Several commenters recommended CMS use the most recent data available to more accurately align the FY 2027 payment update with rising cost pressures (including increasing operational and regulatory costs) and actual inflationary increases. Several commenters also noted that pharmaceutical, durable medical equipment (DME), and supply costs are rising at a faster rate than the proposed payment update. Commenters also pointed out that the new regulatory and compliance burdens introduced in the FY 2027 Hospice Wage Index and Rate Update proposed rule (for example, Hospice Outcomes and Patient Evaluation (HOPE) tool implementation, the Service and Spending Variation Index (SSVI), and the mandatory election

statement addendum) require additional staffing and technology investments that the proposed update does not take into account.

Commenters further noted that nonprofit hospice providers are particularly vulnerable, with Medicare Payment Advisory Commission (MedPAC) reporting an aggregate Medicare margin of -1.3 percent for nonprofit hospices in 2023, compared to 13.7 percent for for-profit providers. Several commenters reported that nonprofit and rural hospices are increasingly relying on philanthropic funds to sustain operations. Commenters urged CMS to finalize the highest payment update supported by the most current available data, with specific recommendations ranging from a modest additional increase (for example, +0.6 percent by UHG) to more substantial adjustments (for example, 6 percent by THAH, 8 percent by Pennant).

Several commenters recommended that CMS continue to evaluate whether the inpatient hospital market basket remains an appropriate proxy for hospice cost structures and supported the development of a hospice-specific market basket as a long-term policy priority.

*Response:* We acknowledge and appreciate the commenters' concerns regarding the proposed FY 2027 hospice payment update and acknowledge the cost pressures described by commenters as they relate to labor, transportation, pharmaceuticals, supplies, and regulatory compliance. We recognize that hospice care is a labor-intensive, community-based benefit and that providers face real and ongoing financial challenges in the current economic environment. We acknowledge commenters request for a higher FY 2027 update or an alternative payment update that deviates from the statutorily required IPPS market basket percentage increase reduced by the productivity adjustment.

We also appreciate the commenters' request for the development of a hospice-specific market basket; however, we are required to update hospice payments pursuant to section 1814(i)(1)(C)(ii)(VII) of the Act which requires us to update hospice PPS payments by the IPPS market basket percentage increase (as defined in section 1886(b)(3)(B)(iii) of the Act) reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. We do not

have discretionary authority to deviate from this statutory formula. We note in the FY 2026 IPPS/LTCH final rule (90 FR 36859 through 36873), we rebased and revised the IPPS market basket to reflect a 2023 base year. Section 1886(b)(3)(B)(iii) of the Act states the Secretary shall update IPPS payments based on a market basket percentage increase estimated by the Secretary before the beginning of the period or FY, by which the cost of the mix of goods and services (including personnel costs but excluding nonoperating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services.

The IPPS market basket is a fixed-weight, Laspeyres-type index that measures price changes over time and would not reflect increases in costs associated with changes in the volume or intensity of input goods and services. As such, the IPPS market basket update would reflect the prospective price pressures described by the commenters during a high inflation period (such as faster wage growth or higher energy prices) but might not reflect other factors that could increase costs such as the quantity of labor used or any shifts between contract and staff nurses. We note that cost changes (that is, the product of price and quantities) would only be reflected when a market basket is rebased, and the base year weights are updated to a more recent time period. As noted previously, we rebased and revised the IPPS market basket to reflect a 2023 base year effective for the FY 2026 IPPS payment update (90 FR 36859 through 36873).

We highlight that the market basket percentage increase is a forecast of the price pressures that hospitals are expected to face in FY 2027. We also note that when developing its forecast for the various price indexes used in the IPPS market basket, IGI considers industry-specific and overall economic conditions (including but not limited to overall economic growth and the impact of rising fuel prices). More specifically for the ECI for hospital workers (which is used to measure compensation prices), IGI considers overall labor market conditions (including the impact of wage pressures on skill mix) as well as trends in contract labor wages,

which both have an impact on wage pressures for workers employed directly by the hospital.

As stated in the FY 2027 IPPS/LTCH proposed rule (91 FR 19312), we proposed a FY 2027 applicable percentage increase of 2.4 percent, reflecting the 2023-based IPPS market basket percentage increase of 3.2 percent and a productivity adjustment of 0.8 percent. We also proposed that if more recent data became available, we would use such data, if appropriate, to derive the final FY 2027 IPPS market basket update for the final rule. We appreciate the commenters' concerns regarding inflationary pressure and the request to use more recent data to determine the FY 2027 IPPS market basket update.

For this final rule, we are using an updated forecast of the price proxies underlying the market basket that incorporates more recent historical data and reflects a revised outlook regarding the U.S. economy. Therefore, for FY 2027, based on more recent data available for this final rule (that is, IGI's second quarter 2026 forecast of the 2023-based IPPS market basket percentage increase with historical data through the first quarter of 2026), we estimate that the FY 2027 IPPS market basket increase is 3.2 percent, which is the same as was included in the proposed rule.

Based on IGI's second quarter 2026 forecast, we are also projecting a productivity adjustment of 0.9 percent that is 0.1 percentage point higher than in the proposed rule primarily due to the incorporation of historical TFP data from BLS. Therefore, for FY 2027 a final IPPS market basket update of 2.3 percent (3.2 percent less 0.9 percentage point) will be applicable, which is slightly lower than the proposed IPPS market basket update of 2.4 percent.

We acknowledge commenters' concerns regarding the adequacy of the inpatient hospital market basket as a proxy for hospice-specific cost structures, particularly with respect to labor, transportation, and community-based care delivery costs. We will continue to monitor hospice payment adequacy, including through MedPAC's annual analyses of hospice margins and access indicators, and will consider whether future rulemaking actions are warranted to better reflect the cost structure of hospice care. We also encourage interested parties to continue working with

Congress on legislative solutions to address payment adequacy concerns that fall outside CMS' administrative authority.

## **PRODUCTIVITY ADJUSTMENT**

*Comment:* Multiple commenters raised concerns about the appropriateness of applying the 0.8 percentage point total factor productivity (TFP) adjustment to hospice payment updates. Commenters recognized that CMS is statutorily required to apply the productivity adjustment based on the 10-year moving average of changes in annual economy-wide private nonfarm business total factor productivity; however, they expressed concerns about the adjustment. Commenters stated that the productivity adjustment largely reflects output growth driven by technology, capital investment, and process efficiencies - factors more applicable to manufacturing and other capital-intensive sectors.

Commenters noted that technology has been transformative in other parts of healthcare, such as through the use of artificial intelligence (AI) in imaging and diagnostics, but those gains do not translate to the hands-on, relational work of hospice and note that unlike institutional providers, hospices have limited ability to achieve productivity gains through technology adoption or workflow optimization, as the majority of costs are driven by direct labor and travel. They remained concerned that this adjustment does not fairly reflect the nature of hospice care, which is fundamentally labor-intensive and not amenable to typical economy-wide productivity gains.

Several commenters urged CMS to acknowledge in the final rule that the productivity adjustment does not reflect hospice-specific workforce realities, and several commenters recommended that CMS work with the Congress to repeal or suspend the productivity adjustment for hospice, or at minimum moderate its application for FY 2027. A commenter specifically requested that CMS seek legislative language repealing section 3401(g) of the Affordable Care Act as it applies to hospice reimbursement.

*Response:* As we noted in the proposed rule, the productivity adjustment is required by

section 1886(b)(3)(B)(xi)(II) of the Act, as amended by section 3401(g) of the Affordable Care Act, which mandates that starting with FY 2013 (and in subsequent FYs), the hospice payment update percentage be annually reduced by changes in economy-wide productivity. As required by statute, the FY 2027 productivity adjustment is derived based on the 10-year moving average growth in economy-wide private nonfarm business total factor productivity for the period ending FY 2027. We recognize the commenters' concerns regarding the appropriateness of the productivity adjustment; however, we are required pursuant to section 1886(b)(3)(B)(xi)(II) of the Act to apply the specific productivity adjustment described here.

We acknowledge commenters' observations that the TFP metric, which is derived from economy-wide productivity trends, may not fully reflect the productivity gains realistically achievable in a labor-intensive, home-based care model such as hospice. To the extent that commenters believe the statutory productivity adjustment is inappropriate for hospice, we encourage interested parties to engage with the Congress on potential legislative modifications to section 3401(g) of the Affordable Care Act. We will continue to work with the Congress and interested parties on longer-term payment reform issues that fall within the scope of our current administrative authority.

The general method for calculating the productivity adjustment is available on the CMS website including a link to the most recent BLS historical TFP data, which allows interested parties to obtain historical TFP annual index levels for 1987 through 2025. We also provided the IGI projection model ([https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/medicareprogramratesstats/downloads/tfp\\_methodology.pdf](https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/medicareprogramratesstats/downloads/tfp_methodology.pdf)), which is used to derive annual TFP growth rates for 2026 and 2027. The annual index level derived from this method is then interpolated to quarterly levels, and the FY 2027 productivity adjustment is equal to the percent change in the 40- quarter moving average projected level for the period ending September 30, 2027, relative to the 40-quarter moving average projected level for the period ending September 30, 2026. We believe our methodology for the productivity adjustment is

consistent with section 1886(b)(3)(B)(xi)(II) of the Act which states that the productivity adjustment is equal to the 10-year moving average of changes in annual economy-wide private nonfarm business multi-factor productivity (as projected by the Secretary for the 10-year period ending with the applicable FY, year, cost reporting period, or other annual period).

At the time of this final rule, the 2027 productivity adjustment reflects BLS historical TFP data through 2025 (released on March 19, 2026) and IGI's forecasted TFP growth for 2026 and 2027. The average annual growth rate of historical TFP published by BLS for 2018 through 2025 is currently 1.0 percent and IGI is projecting average TFP growth of about 0.7 percent for 2026 and 2027 based on IGI's second quarter 2026 forecast. Combining the historical and projected TFP data over the entire 10-year time period and interpolating into quarterly index levels results in a 10-year moving average growth rate of TFP of 0.9 percent for FY 2027. The productivity adjustment (based on the 10-year period ending with FY 2027) for the FY 2027 Hospice Wage Index and Rate Update final rule is 0.1 percentage point higher than the productivity adjustment for the FY 2027 Hospice Wage Index and Rate Update proposed rule mainly due to the incorporation of updated BLS historical data.

## **FORECAST ERROR**

*Comment:* Many commenters raised concerns about the cumulative financial impact of persistent market basket forecast errors on hospice payment adequacy. Commenters noted that CMS' annual payment updates are based on forecasts of future price growth rather than actual historical price inflation, and that these forecasts have consistently underestimated actual inflation over the past 5 years. Many commenters requested CMS make a one-time market basket adjustment to account for the cumulative shortfall in hospice payment rates due to forecast errors from FYs 2022 through 2026. Commenters also stated that because annual payment updates compound, the impact of forecast errors is cumulative. They further stated that Medicare hospice expenditures totaled about \$30.3 billion in FY 2025 so a 4 percent shortfall equates to over \$1 billion in annual underpayments relative to what payments would have been

with accurate market basket updates and that hospices are almost entirely dependent on Medicare, which accounts for approximately 90 percent of hospice payments nationally, leaving providers with no alternative payer source to offset Medicare underpayments.

Commenters urged CMS to consider any and all opportunities to implement one-time catch-up adjustment for hospice payments, as has been done in the past for other payment systems such as the Skilled Nursing Facility PPS. Some commenters requested that CMS establish a formal regulatory mechanism for correcting hospice market basket forecast errors going forward.

Response: We thank the commenters for their recommendations. The inpatient hospital market basket percentage increases are required by law to be set prospectively, which means that the update relies on a mix of both historical data for part of the period for which the update is calculated and forecasted data for the remainder. As we have previously indicated (88 FR 51173), there is currently no mechanism to adjust for market basket forecast error in the hospice payment update. Furthermore, beginning in 1989, the Congress gave hospices their first increase (20 percent) in reimbursement since 1986 and tied future increases to the annual increase in the hospital market basket through a provision contained in the Omnibus Budget Reconciliation Act of 1989. While the projected IPPS hospital market basket updates for FY 2021 through FY 2025 (the last historical FY) were under forecast (actual increases less forecasted increases were positive), this was largely due to unanticipated inflationary and labor market pressures as the economy emerged from the COVID-19 public health emergency. The forecast error has been both positive and negative during past years, and over longer periods of time the cumulative forecast has not deviated significantly from the historical measures.

*Final Decision:* We are finalizing the FY 2027 hospice payment update using the methodology outlined. Based on the more recent IGI second quarter 2026 forecast with historical data through the first quarter of 2026, the 2023-based IPPS market basket increase factor for FY 2027 is 3.2 percent. The FY 2027 productivity adjustment based on the more recent IGI second

quarter 2026 forecast is 0.9 percentage point. Therefore, we are finalizing for FY 2027, a hospice payment update percentage of 2.3 percent (3.2 percent market basket percentage increase less a 0.9 percentage point productivity adjustment).

### 3. Final FY 2027 Hospice Payment Rates

There are four payment categories that are distinguished by the location and intensity of the hospice services provided. The base payments are adjusted for geographic differences in wages by multiplying the labor share, which varies by category, of each base rate by the applicable hospice wage index. A hospice is paid the RHC rate for each day the beneficiary is enrolled in hospice, unless the hospice provides CHC, IRC, or GIP. CHC is provided during a period of patient crisis to maintain the patient at home; IRC is short-term care to allow the usual caregiver to rest and be relieved from caregiving; and GIP care is intended to treat symptoms that cannot be managed in another setting.

As discussed in the FY 2016 Hospice Wage Index and Rate Update final rule (80 FR 47172), we implemented two different RHC payment rates, one RHC rate for the first 60 days and a second RHC rate for day 61 and subsequent days. In addition, in that final rule, we implemented a Service Intensity Add-On (SIA) payment for RHC when direct patient care is provided by a registered nurse (RN) or social worker during the last 7 days of the beneficiary's life. The SIA payment is equal to the CHC hourly rate multiplied by the hours of nursing or social work provided (up to 4 hours total) that occur on the day of service if certain criteria are met. To maintain budget neutrality, as required under section 1814(i)(6)(D)(ii) of the Act, the new RHC rates were adjusted by an SIA budget neutrality factor (SBNF). The SBNF is used to reduce the overall RHC rate to ensure that SIA payments are budget neutral. At the beginning of every FY, SIA utilization is compared to the prior year in order calculate a budget neutrality adjustment. For FY 2027, the proposed SIA budget neutrality factor is 0.9999 for RHC days 1-60 and 0.9999 for RHC days 61+. With updated FY 2025 claims data (as of May 12, 2026), the final CY 2027 SIA budget neutrality factor is 0.9999 for days 1–60 and 0.9999 for RHC days

61+.

In the FY 2017 Hospice Wage Index and Rate Update final rule (81 FR 52156), we initiated a policy of applying a wage index standardization factor to hospice payments to eliminate the aggregate effect of annual variations in hospital wage data. For FY 2027 hospice rate setting, we are continuing our longstanding policy of using the most recent data available. Specifically, we proposed using FY 2025 claims data (as of January 15, 2026) for the FY 2027 payment rate updates. We note that the budget neutrality factors and payment rates would be updated with more complete FY 2025 claims data in the FY 2027 Hospice Wage Index and Rate Update final rule. The wage index standardization factor is calculated by simulating total payments using FY 2025 hospice utilization claims data with the FY 2026 wage index (pre-floor, pre-reclassified hospital wage index with the hospice floor and the 5 percent cap on wage index decreases) and FY 2026 payment rates and compare it to our simulation of total payments using FY 2025 utilization claims data, the FY 2027 hospice wage index (pre-floor, pre-reclassified hospital wage index with hospice floor, and the 5 percent cap on wage index decreases) and FY 2026 payment rates. By dividing payments for each level of care (RHC days 1 through 60, RHC days 61+, CHC, IRC, and GIP) using the FY 2026 wage index and FY 2026 payment rates for each level of care by the FY 2027 wage index and FY 2026 payment rates, we obtain a wage index standardization factor for each level of care.

With updated claims data (as of May 12, 2026), the wage index standardization factor was calculated by simulating total payments using FY 2025 hospice utilization claims data with the FY 2026 wage index (pre-floor, pre-reclassified hospital wage index with the hospice floor and the 5 percent cap on wage index decreases) and FY 2026 payment rates and compare it to our simulation of total payments using FY 2025 utilization claims data, the FY 2027 hospice wage index (pre-floor, pre-reclassified hospital wage index with hospice floor, and the 5 percent cap on wage index decreases) and FY 2026 payment rates. By dividing payments for each level of care (RHC days 1 through 60, RHC days 61+, CHC, IRC, and GIP) using the FY 2026 wage

index and FY 2026 payment rates for each level of care by the FY 2027 wage index and FY 2026 payment rates, we obtain a wage index standardization factor for each level of care. The final FY 2027 wage index standardization factors using FY 2025 claims data (as of May 12, 2026) for each level of care are shown in Tables 1 and 2.

**TABLE 1: Final FY 2027 Hospice RHC Payment Rates**

| Code | Description                   | FY 2026 Payment Rates | SIA Budget Neutrality Factor | Wage Index Standardization Factor | FY 2027 Hospice Payment Update | FY 2027 Payment Rates |
|------|-------------------------------|-----------------------|------------------------------|-----------------------------------|--------------------------------|-----------------------|
| 651  | Routine Home Care (days 1-60) | \$230.83              | 0.9999                       | 1.0010                            | 1.023                          | \$236.35              |
| 651  | Routine Home Care (days 61+)  | \$181.94              | 0.9999                       | 1.0013                            | 1.023                          | \$186.35              |

**TABLE 2: Final FY 2027 Hospice CHC, IRC, and GIP Payment Rates**

| Code | Description                                        | FY 2026 Payment Rates | Wage Index Standardization Factor | FY 2027 Hospice Payment Update | FY 2027 Payment Rates             |
|------|----------------------------------------------------|-----------------------|-----------------------------------|--------------------------------|-----------------------------------|
| 652  | Continuous Home Care Full Rate = 24 hours of care. | \$1,674.29            | 1.0080                            | 1.023                          | \$1,726.50<br>\$71.94<br>per hour |
| 655  | Inpatient Respite Care                             | \$532.48              | 1.0023                            | 1.023                          | \$545.98                          |
| 656  | General Inpatient Care                             | \$1,199.86            | 1.0034                            | 1.023                          | \$1,231.63                        |

Note: The SIA budget neutrality factors are only applied to the RHC rates, therefore, no SIA budget neutrality factors are used to calculate the rates for CHC, IRC and GIP.

Sections 1814(i)(5)(A) through (C) of the Act require that hospices submit quality data on measures to be specified by the Secretary. In the FY 2012 Hospice Wage Index and Rate Update final rule (76 FR 47320 through 47324), we implemented a Hospice Quality Reporting Program (HQRP) as required by those sections. Hospices were required to begin collecting quality data in October 2012 and submit those quality data in 2013. Section 1814(i)(5)(A)(i) of the Act requires that for FY 2014 through FY 2023, the Secretary shall reduce the market basket percentage increase by 2 percentage points for any hospice that does not comply with the quality data submission requirements with respect to that FY. Section 1814(i)(5)(A)(i) of the Act was

amended by section 407(b) of Division CC, Title IV of the Consolidated Appropriations Act (CAA), 2021 (Pub. L. 116–260) to change the payment reduction for failing to meet hospice quality reporting requirements from 2 to 4 percentage points. Depending on the amount of the annual update for a particular year, a reduction of 4 percentage points beginning in FY 2024 makes a negative payment update more likely than the previous 2 percent reduction. This could result in the annual market basket update being less than zero percent for a FY and may result in payment rates that are less than payment rates for the preceding FY. We applied this policy beginning with the FY 2024 Annual Payment Update (APU), which we based on CY 2022 quality data. Therefore, the final FY 2027 rates for hospices that do not submit the required quality data would be updated by -1.7 percent, which is the final FY 2027 hospice payment update percentage of 2.3 percent minus 4 percentage points. The final payment rates for hospices that do not submit the required quality data are shown in Tables 3 and 4.

**TABLE 3: Final FY 2027 Hospice RHC Payment Rates for Hospices That *DO NOT* Submit the Required Quality Data**

| Code | Description                   | FY 2026 Payment Rates | SIA Budget Neutrality Factor | Wage Index Standardization Factor | FY 2027 Hospice Payment Update of 2.3% minus 4 percentage points = - 1.7% | FY 2027 Payment Rates |
|------|-------------------------------|-----------------------|------------------------------|-----------------------------------|---------------------------------------------------------------------------|-----------------------|
| 651  | Routine Home Care (days 1-60) | \$230.83              | 0.9999                       | 1.0010                            | 0.983                                                                     | \$227.11              |
| 651  | Routine Home Care (days 61+)  | \$181.94              | 0.9999                       | 1.0013                            | 0.983                                                                     | \$179.06              |

**TABLE 4: Final FY 2027 Hospice CHC, IRC, and GIP Payment Rates for Hospices That  
DO NOT Submit the Required Quality Data**

| Code | Description                                                   | FY 2026<br>Payment<br>Rates | Wage Index<br>Standardization<br>Factor | FY 2027<br>Hospice<br>Payment<br>Update of<br>2.3% minus 4<br>percentage<br>points = -<br>1.7% | FY 2027<br>Payment<br>Rates       |
|------|---------------------------------------------------------------|-----------------------------|-----------------------------------------|------------------------------------------------------------------------------------------------|-----------------------------------|
| 652  | <b>Continuous Home Care Full Rate =<br/>24 hours of care.</b> | \$1,674.29                  | 1.0080                                  | 0.983                                                                                          | \$1,658.99<br>\$69.12 per<br>hour |
| 655  | <b>Inpatient Respite Care</b>                                 | \$532.48                    | 1.0023                                  | 0.983                                                                                          | \$524.63                          |
| 656  | <b>General Inpatient Care</b>                                 | \$1,199.86                  | 1.0034                                  | 0.983                                                                                          | \$1,183.47                        |

Note: The SIA budget neutrality factors are only applied to the RHC rates, therefore, no SIA budget neutrality factors are used to calculate the rates for CHC, IRC and GIP.

We did not receive any comments on the proposed FY 2027 hospice payment rates.

*Final Decision:* We are finalizing the FY 2027 hospice payment rates, SIA budget neutrality factor, and wage index standardization factors. The final FY 2027 RHC payment rates are shown in Table 1. The final FY 2027 payment rates for CHC, IRC, and GIP are shown in Table 2. The final payment rates for hospices that do not submit the required quality data are shown in Tables 3 and 4.

#### 4. Hospice Cap Amount for FY 2027

As discussed in the FY 2016 Hospice Wage Index and Rate Update final rule (80 FR 47183), we implemented changes mandated by the IMPACT Act of 2014 (Pub. L. 113-185, Oct. 6, 2014). Specifically, we stated that for accounting years that end after September 30, 2016, and before October 1, 2025, the hospice cap is updated by the hospice payment update percentage rather than using the Consumer Price Index for All Urban Consumers (CPI-U). Division CC, section 404 of the CAA, 2021 extended the accounting years impacted by the adjustment made to the hospice cap calculation until 2030. In the FY 2022 Hospice Wage Index and Rate Update final rule (86 FR 42539), we finalized conforming regulation text changes at § 418.309 to reflect the provisions of the CAA, 2021. Division P,

section 312 of the CAA, 2022 (Pub. L. 117-103, March 15, 2022) amended section 1814(i)(2)(B) of the Act and extended the provision that mandates the hospice cap be updated by the hospice payment update percentage (the inpatient hospital market basket percentage increase reduced by the productivity adjustment) rather than the CPI-U for accounting years that end after September 30, 2016 and before October 1, 2031. Division FF, section 4162 of the CAA, 2023 (Pub. L. 117-328, December 29, 2022) amended section 1814(i)(2)(B) of the Act and extended the provision that currently mandates the hospice cap be updated by the hospice payment update percentage (the inpatient hospital market basket percentage increase reduced by the productivity adjustment) rather than the CPI-U for accounting years that end after September 30, 2016 and before October 1, 2032. Division G, section 308 of the Consolidated Appropriations Act, 2024 (CAA, 2024) (Pub. L. 118-42, March 9, 2024) extends this provision to October 1, 2033. Therefore, for accounting years that end after September 30, 2016, and before October 1, 2033, the hospice cap amount is updated by the hospice payment update percentage rather than the CPI-U. In the FY 2025 Hospice Wage Index and Rate Update final rule (89 FR 64202), as a result of the changes mandated by the CAA, 2024, we finalized conforming regulation text changes at § 418.309 to reflect the revisions at section 1814(i)(2)(B) of the Act.

Division J, section 6218 of the Consolidated Appropriations Act, 2026 (CAA, 2026) (Pub. L. 119-75, February 3, 2026) amended section 1814(i)(2)(B) of the Act and extended the accounting years impacted by the adjustment made to the hospice cap calculation until 2035. Before the enactment of this provision, the hospice cap update was set to revert to the original methodology of updating the annual cap amount by the CPI-U beginning on October 1, 2033. Therefore, for accounting years that end after September 30, 2016, and before October 1, 2035, the hospice cap amount is updated by the hospice payment update percentage rather than the CPI-U. As a result of the changes mandated by the CAA, 2026, we proposed conforming regulation text changes at § 418.309 to reflect the revisions at section 1814(i)(2)(B) of the Act.

The proposed hospice cap amount for the FY 2027 cap year was \$36,210.11, which is

equal to the FY 2026 cap amount (\$35,361.44) updated by the proposed FY 2027 hospice payment update of 2.4 percent. We also proposed that if more recent data became available after the publication of the proposed rule and before the publication of this final rule (for example, a more recent estimate of the hospice payment update percentage), we would use such data, if appropriate, to determine the hospice cap amount in the FY 2027 Hospice Wage Index and Rate Update final rule. Using updated FY 2025 hospice claims data (as of May 12, 2026), the final cap amount for the FY 2027 cap year will be \$36,174.75 which is equal to the FY 2026 cap amount (\$35,361.44) increased by the final FY 2027 hospice payment update of 2.3 percent.

We received public comments on our proposed update to the hospice cap for FY 2027. The following is a summary of the comments we received and our responses.

*Comment:* While some commenters expressed support for the proposed 2.4 percent update to the FY 2027 hospice cap amount, most commenters recommended a higher hospice update percentage than the proposed 2.4 percent increase. A commenter recommended that the cap amount be updated by a minimum of 8 percent to match rising costs and ensure equitable hospice access. Other commenters argued that the current hospice cap methodology disproportionately impacts providers in high-cost States and recommended that the hospice cap amount be geographically adjusted. A commenter suggested that the wage index can at times cause hospice providers in States like California to reach hospice cap payment thresholds in less than 4 months. This commenter recommended that the hospice cap be calculated with a hospice specific wage index and cap threshold across all States.

Several commenters recommended more far-reaching reforms to the hospice cap methodology than the proposed wage index policies outlined in the FY 2027 Hospice Wage Index and Rate Update proposed rule. These commenters recommended replacing the aggregate cap with more targeted program integrity tools such as claims-based analytics, ownership screening and the SSVI, and focusing enforcement on ownership patterns, abnormal utilization, and suspicious billing rather than penalizing compliant providers through a uniform national

dollar threshold.

Several commenters argued that the hospice cap is outdated and may create unintended consequences for compliant hospices as well as beneficiaries. A commenter suggested that the cap creates challenges for responsible hospices that admit patients who are appropriate for hospice but have used multiple benefit periods under care with a bad actor, including hospices that may have admitted or retained patients inappropriately. Another commenter recommended that CMS examine the impact of the hospice aggregate cap on providers serving larger shares of low-income and otherwise economically vulnerable beneficiaries and suggested that the hospice cap can create incentives to avoid patients who are expected to need longer stays or more complex supportive services.

*Response:* We thank the commenters for their recommendations pertaining to the hospice cap; however, we are required by law to update the hospice cap amount from the preceding year by the hospice payment update percentage, in accordance with section 1814(i)(2)(B)(ii) of the Act. Therefore, we do not have the statutory authority to replace the hospice cap, update the cap amount in a different manner, nor account for regional cost differentials by geographically adjusting the hospice cap.

*Final Decision:* We are finalizing the update to the hospice cap amount for FY 2027 in accordance with statutorily mandated requirements and the proposed regulation text change at § 418.309 to reflect the revisions at section 1814(i)(2)(B) of the Act, which require that, for accounting years that end after September 30, 2016, and before October 1, 2035, the hospice cap amount be updated by the hospice payment update percentage rather than the CPI-U. The final cap amount for the FY 2027 cap year will be \$36,174.75, which is equal to the FY 2026 cap amount (\$35,361.44) increased by the final FY 2027 hospice payment update of 2.3 percent.

## *B. Non-Hospice Spending During a Hospice Election*

### *1. Medicare Non-Hospice Spending*

#### *a. Background*

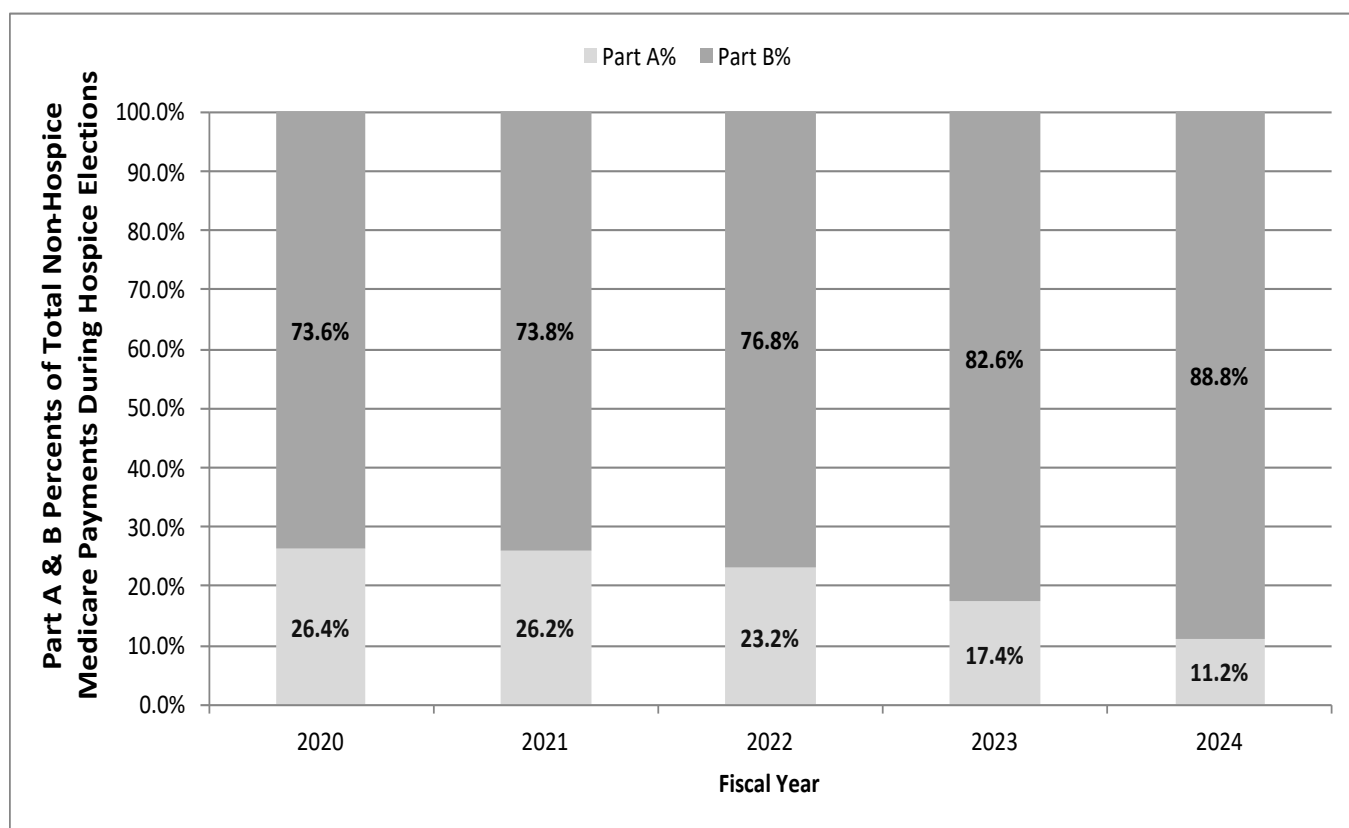
The Medicare hospice per diem payment amounts were developed to cover all services needed for the palliation and management of the terminal illness and related conditions, as described in section 1861(dd)(1) of the Act. Hospice services provided under a written plan of care (POC) should reflect patient and family goals and interventions based on the problems identified in the initial, comprehensive, and updated comprehensive assessments as outlined in the hospice CoPs at § 418.56. As referenced in our regulations at § 418.64, a hospice must routinely provide all core services directly by hospice employees and they must be provided in a manner consistent with acceptable standards of practice. Under the current payment system, hospices are paid for each day that a beneficiary is enrolled in hospice care, regardless of whether services are rendered on any given day.

Additionally, when a beneficiary elects the Medicare hospice benefit, he or she waives the right to Medicare payment for services related to the treatment of the terminal illness and related conditions, except for services provided by the designated hospice and the attending physician. The comprehensive nature of the services covered under the Medicare hospice benefit is structured so that hospice beneficiaries would not have to routinely seek items, services, and medications beyond those provided by hospice. We believe that it would be unusual and exceptional to see services provided outside of hospice for those individuals who are approaching the end of life, and we have reiterated since 1983 that “virtually all” care needed by the terminally ill individual would be provided by the hospice (48 FR 56010, 84 FR 38509, 85 FR 47091, 86 FR 19713, 88 FR 20032, 89 FR 64202). Hospices are required to provide the individual (or representative) with information indicating that services unrelated to the terminal illness and related conditions are exceptional and unusual and the hospice should be providing virtually all care needed by the individual who has elected hospice, as codified in regulations at § 418.24(b)(3).

b. Medicare Non-Hospice Spending Since Implementation of the Hospice Election Statement  
Addendum

Since the implementation of the hospice election statement addendum requirement in FY 2020 (84 FR 38484), which must be provided upon request, Medicare non-hospice spending for beneficiaries who have elected the hospice benefit has shown substantial and consistent growth. In the FY 2027 Hospice Wage Index and Payment Rate Update proposed rule (91 FR 17338), we provided data on nonhospice spending during a hospice election. Specifically, we noted that Medicare paid over \$2.8 billion in non-hospice spending during a hospice election in FY 2024 for items and services under Parts A, B, and D (see Figures B1 and B2).

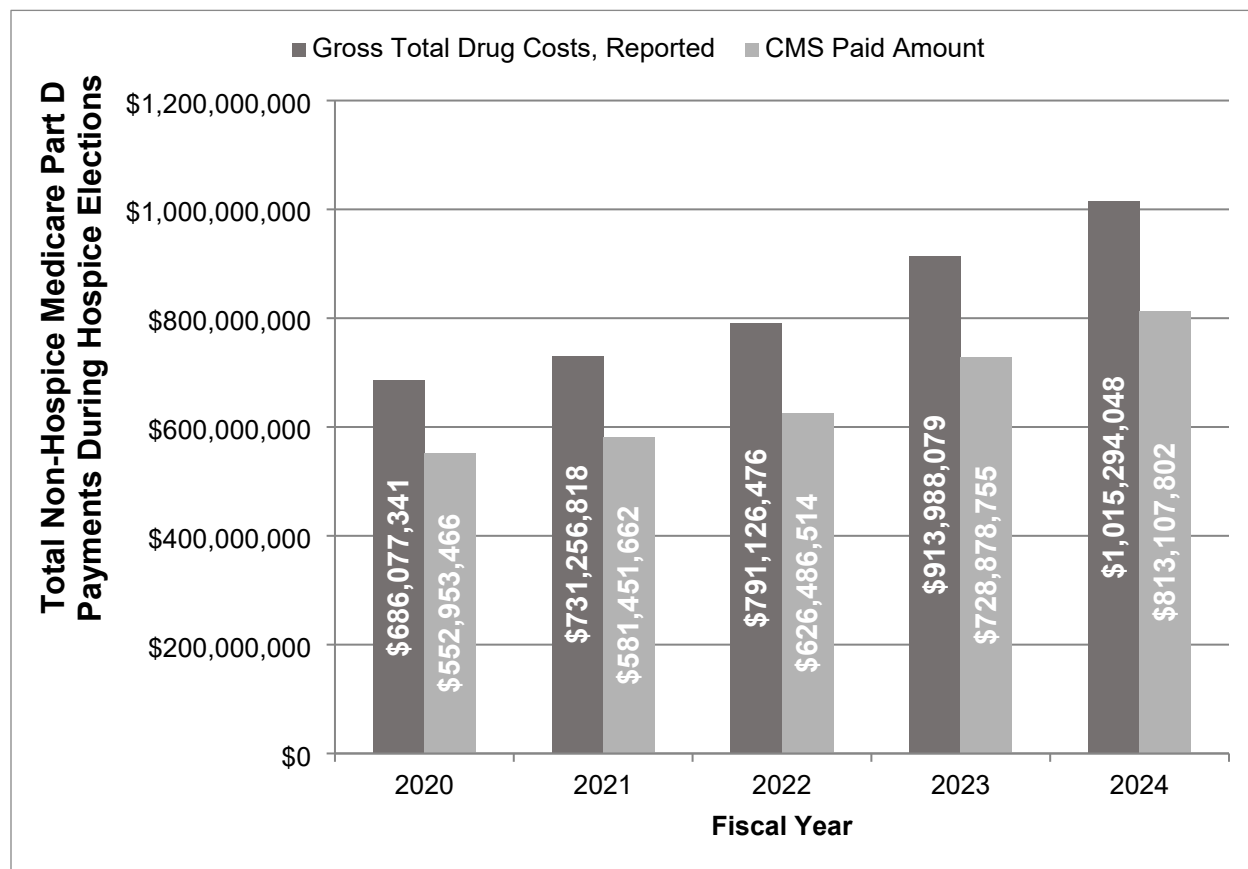
**Figure B1: Medicare Payments for Non-Hospice Medicare Part A and Part B Items and Services During Hospice Elections, FYs 2020 – 2024**



**Source:** Analysis of 100 percent Medicare Part A and B claims analytic files, FYs 2020 – 2024, from the Chronic Conditions Data Warehouse (CCW), accessed May 09, 2025.

**Notes:** Payments are based on estimated total non-hospice Medicare utilization (\$) payments per hospice service day, excluding utilization on hospice admission or live discharge days. Only Medicare paid amounts are included. The Medicare paid amounts were equally apportioned across the length of each claim and only the days that overlapped a hospice election (not including hospice admission or live discharge days) were counted.

**Figure B2: Medicare Payments for Non-Hospice Medicare Part D Drugs During Hospice Elections, FYs 2020 – 2024**



**Source:** Analysis of 100 percent Part D prescription drug events (PDEs), FYs 2020 - 2024 from the CCW Virtual Research Data Center (VRDC), accessed May 09, 2025.

**Notes:** The Medicare paid amounts were assigned to hospice days based on the service date on the PDE. Only service dates that fell within a hospice election and were not hospice admission or live discharge days were counted. The Medicare paid amount includes the low-income cost-sharing subsidy and covered drug plan paid amount on Part D PDEs. Payments are based on the total gross drug cost, excluding utilization on hospice admission or live discharge days.

Medicare payments for non-hospice Part A and Part B items and services received by hospice beneficiaries during a hospice election increased from nearly \$790 million in FY 2020 to over \$2 billion in FY 2024 (see Figure B1). This represents an increase in non-hospice Medicare spending for Parts A and B of nearly \$1.3 billion, or 160 percent. The most substantial increase in a single year occurred from FY 2023 to FY 2024, which demonstrated an increase in non-hospice Medicare spending for Part A and Part B items and services of \$770 million, or 60 percent.

While there is minimal beneficiary cost sharing under the Medicare hospice benefit,<sup>4</sup>

<sup>4</sup> The amount of coinsurance for each prescription approximates five percent of the cost of the drug or biological to the hospice determined in accordance with the drug copayment schedule established by the hospice, except that the

non-hospice services received outside of the Medicare hospice benefit are subject to beneficiary cost sharing. In FY 2024, the total beneficiary cost sharing amount for beneficiaries electing the hospice benefit was \$510 million for Parts A and B.<sup>5</sup> In FY 2024, beneficiaries receiving hospice services from for-profit hospices had, on average, nearly 167 percent higher non-hospice spending per day compared to beneficiaries under non-profit hospice care. This represents a significant increase from FY 2022, when beneficiaries receiving hospice services from for-profit hospices had, on average, 60 percent higher non-hospice spending per day compared to beneficiaries under non-profit hospice care.

We also examined non-hospice spending during a hospice election by claim type for Part A and Part B items and services, as shown in Table 5. In percentage terms, we found the most dramatic increase in billing related to carrier/physician supply. From FY 2020 to FY 2024, non-hospice spending related to carrier/physician supply increased 317.5 percent with a notable single year spike from FY 2022 to FY 2023 of 63.5 percent, and the largest increase in one year occurred from FY 2023 to FY 2024 with an increase of 90.8 percent. The diagnosis code for carrier claims with the largest increase in spending in FY 2024 was for pressure ulcers, largely associated with skin substitutes, which accounted for 47 percent, almost half of the carrier claim spending. Carrier claims for ulcers from FY 2020 to FY 2024 increased by almost 4,000 percent, rising from \$18 million in FY 2020 to \$714 million in FY 2024. CMS is aware of the increased provision of skin substitutes overall and changes were made to the reimbursement for skin substitutes beginning in 2026. Effective January 1, 2026, CMS implemented major changes to skin substitute payments, transitioning most products to a single, national unified rate of approximately \$127.14 per cm<sup>2</sup> (90 FR 49266, 90 FR 53448) in CY 2026, with the intent to propose payment rates that differentiate among three FDA regulatory categories in future years.

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amount of coinsurance for each prescription may not exceed \$5. The amount of coinsurance for each respite care day is equal to five percent of the payment made by CMS for a respite care.

<sup>5</sup> Part A and B cost sharing is calculated by summing together the deductible and coinsurance amounts for each claim.

This policy, applicable to both non-facility and hospital outpatient settings, classifies products as "incident-to" supplies to eliminate the Average Sales Price (ASP) + 6 percent model, aiming to significantly reduce Medicare spending. Additionally, it is not unusual for terminally ill patients to have skin breakdown as a result of their deconditioned state and where wound care would be appropriate for comfort. As such, we question why hospices would not be providing needed wound care for pressure ulcers (which could potentially require a skin substitute in certain circumstances) given that pressure ulcers generally develop from unrelieved pressure as a result of limited mobility and in terminally ill individuals who are chairbound or bedbound.

Additionally, we found notable consistent increases in outpatient and inpatient services in recent years, as shown in Table 5. From FY 2020 to FY 2024, non-hospice spending related to outpatient services increased 40.4 percent and inpatient services increased by 26.9 percent in the same time frame. Additionally, we found that 30.1 percent and 25.9 percent of the non-hospice spending that occurred in FY 2024 was related to the primary hospice diagnosis of Alzheimer’s disease/dementia/Parkinson’s and heart conditions (Congestive Heart Failure and other heart disease), respectively. We also found that daily rates of non-hospice spending for services in FY 2024 are greater for every claim type, and 166.9 percent higher in total spending per day, for patients receiving hospice services in for-profit vs. non-profit hospices. We also noted that 67 percent of non-hospice spending occurred after hospice election day 60.

**TABLE 5: Total Medicare Payments for Non-Hospice Medicare Part A and Part B Items and Services During Hospice Elections (Excluding Admission/Live Discharge Days) By Claim Type [All Beneficiaries], FYs 2020 – 2024**

| Claim Type                | FY2020        | FY2021        | FY2022        | FY2023        | FY2024          | Total           |
|---------------------------|---------------|---------------|---------------|---------------|-----------------|-----------------|
| Durable Medical Equipment | \$62,945,939  | \$53,064,592  | \$61,786,674  | \$70,599,597  | \$68,269,227    | \$316,666,029   |
| Home Health               | \$17,193,724  | \$16,639,796  | \$16,370,072  | \$18,311,448  | \$20,575,467    | \$89,090,507    |
| Inpatient                 | \$152,295,116 | \$164,275,796 | \$157,318,180 | \$173,047,031 | \$193,298,218   | \$840,234,341   |
| Outpatient                | \$144,508,467 | \$161,409,918 | \$163,125,008 | \$179,745,517 | \$202,855,467   | \$851,644,377   |
| Carrier/Physician Supply  | \$374,328,285 | \$459,346,611 | \$500,910,102 | \$819,249,739 | \$1,562,873,679 | \$3,716,708,416 |
| Skilled Nursing Facility  | \$38,657,451  | \$57,876,223  | \$45,206,485  | \$34,612,936  | \$17,663,078    | \$194,016,173   |

**Source:** Analysis of 100 percent Medicare Part A and B claims analytic files, FYs 2020 – 2024, from the CCW, accessed May 9, 2025.

**Notes:** Payments are based on estimated total non-hospice Medicare utilization (\$) per hospice service day, excluding utilization on hospice admission or live discharge days. Only Medicare paid amounts are included. The Medicare paid amounts were equally apportioned across the length of each claim and only the days that overlapped a hospice election (not including hospice admission or live discharge days) were counted.

Hospices are responsible for covering drugs and biologicals related to the palliation and management of the terminal illness and related conditions while the patient is under hospice care.

After a hospice election, many maintenance drugs or drugs used to treat or cure a condition are typically discontinued as the focus of care shifts to palliation and comfort measures. However, those same drugs may be appropriately continued, as they may offer symptom relief for the palliation and management of the terminal prognosis.<sup>6</sup> Similar to the increase in non-hospice spending during a hospice election for Medicare Parts A and B items and services, non-hospice spending for Part D drugs increased from \$552.9 million in FY 2020 to \$813.1 million in FY 2024, which represents an increase of over a 47 percent (Figure B2).

Table 6 details the various components of Part D spending for patients receiving hospice care for FYs 2020 to FY 2024. The portion of the FY 2020 to FY 2024 Part D spending that was paid by Medicare is the sum of the Low-Income Cost-Sharing Subsidy and the Covered Drug Plan Paid Amount, approximately \$3.3 billion. The beneficiary cost sharing amount was approximately \$335.1 million.<sup>7</sup>

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<sup>6</sup> Update on Part D Payment Responsibility for Drugs for Beneficiaries Enrolled in Medicare Hospice. November 2016. <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/Downloads/2016-11-15-Part-D-Hospice-Guidance.pdf>.

<sup>7</sup> Part D cost sharing is calculated by summing together the “the patient pay amount” and the “other true out of pocket” amount that are recorded on the Part D PDE.

**TABLE 6: Drug Cost Sources for Hospice Beneficiaries' FY 2020-2024 Drugs Received Through Part D**

| <b>Component</b>                                      | <b>FY2020</b> | <b>FY2021</b> | <b>FY2022</b> | <b>FY2023</b> | <b>FY2024</b>   | <b>Total</b>    |
|-------------------------------------------------------|---------------|---------------|---------------|---------------|-----------------|-----------------|
| Patient Pay Amount                                    | \$62,477,174  | \$64,484,342  | \$67,806,189  | \$69,416,624  | \$71,000,446    | \$335,184,775   |
| Low Income Cost-Sharing Subsidy                       | \$152,706,016 | \$157,276,197 | \$170,289,423 | \$196,366,976 | \$206,193,896   | \$882,832,508   |
| Other True Out of Pocket Amount                       | \$1,408,537   | \$1,517,950   | \$1,569,171   | \$2,440,044   | \$2,354,151     | \$9,289,853     |
| Patient Liability Reduction due to Other Payer Amount | \$18,463,129  | \$21,121,595  | \$24,436,108  | \$28,588,193  | \$35,634,350    | \$128,243,375   |
| Covered Drug Plan Paid Amount                         | \$400,247,450 | \$424,175,465 | \$456,197,091 | \$532,511,779 | \$606,913,906   | \$2,420,045,691 |
| Non-Covered Plan Paid Amount                          | \$14,992,169  | \$19,290,227  | \$23,282,199  | \$31,204,341  | \$35,049,380    | \$123,818,316   |
| Six Payment Amount Totals                             | \$650,294,475 | \$687,865,775 | \$743,580,182 | \$860,527,958 | \$957,146,130   | \$3,899,414,520 |
| Unknown/Unreconciled                                  | \$35,782,866  | \$43,391,043  | \$47,546,294  | \$53,460,121  | \$58,147,919    | \$238,328,243   |
| Gross Total Drug Costs, Reported                      | \$686,077,341 | \$731,256,818 | \$791,126,476 | \$913,988,079 | \$1,015,294,048 | \$4,137,742,762 |
| CMS Paid Amount                                       | \$552,953,466 | \$581,451,662 | \$626,486,514 | \$728,878,755 | \$813,107,802   | \$3,302,878,199 |

**Source:** Analysis of 100% Part D PDEs, FYs 2020-2024, from the CCW VRDC, accessed May 09, 2025.

**Notes:** The Medicare paid amounts were assigned to hospice days based on the service date on the PDE. Only service dates that fell within a hospice election and were not hospice admission or live discharge days were counted. The Medicare paid amount includes the low-income cost-sharing subsidy and covered drug plan paid amount on Part D PDEs.

We also note hospice beneficiaries with principal diagnoses of neurological and degenerative diseases, circulatory and cerebrovascular diseases, respiratory diseases, and neoplasms have received clinically indicated services for these conditions outside the hospice benefit. This issue may arise from hospices misclassifying conditions, referring patients to non-hospice providers, failing to coordinate care, or deliberately avoiding costs. We have examined principal hospice diagnoses on claims and identified Part B items and services paid outside the hospice benefit and have found concerning trends in non-hospice spending. Our intent in including data regarding non-hospice spending related to hospice principal diagnosis codes in the

proposed rule is to highlight items and services we believe should be covered under the hospice benefit. For example, it is not clear why medications like bronchodilators or oxygen would be considered unrelated to a respiratory condition indicated as the primary hospice diagnosis.

As we discussed previously, the hospice model is interdisciplinary and focuses on symptom management rather than curative treatment. Covering related services under the hospice benefit reinforces this philosophy by ensuring that care for the terminal condition, including medications, equipment, supplies, and therapies, is managed and integrated by the hospice IDG. We question whether increased spending outside of the hospice benefit is indicative of diminishing comprehensive and patient-centered care. Covering all items and services related to the terminal illness and related conditions ensures that patients receive coordinated medical, nursing, psychosocial, and supportive services that address the full scope of a patient’s end-of-life needs. This approach reduces fragmentation, prevents gaps in care, and supports comfort, dignity, and quality of life. Further, it reduces the burden of navigating additional coverage and cost sharing that the patient would not have under the hospice benefit.

As the hospice benefit requires hospice coverage of all items and services related to the terminal illness and any related conditions, the increase in non-hospice spending, particularly for items and services that appear objectively related to the principal diagnosis, may suggest non-compliance with statutory and regulatory requirements and inappropriate cost-shifting to other Medicare benefits. Covering items and services related to the principal hospice diagnosis is essential to maintaining the integrity of the hospice benefit, ensuring coordinated and compassionate end-of-life care, protecting beneficiaries, and supporting responsible stewardship of Medicare resources. In the following section, we describe in more detail spending data on non-hospice services from FY 2024.

**TABLE 7: Medicare Payments for Non-Hospice for Part B Items and Services During Hospice Elections Provided to Hospice Beneficiaries, FY 2024**

| Diagnosis Coding Group    | DME and Carrier Claims Payments |
|---------------------------|---------------------------------|
| Neurological/Degenerative | \$575,587,784                   |

|                       |                        |
|-----------------------|------------------------|
| Heart/Cerebrovascular | \$589,991,573          |
| Respiratory           | \$95,036,803           |
| Cancer                | \$105,884,608          |
| All Other Diseases    | \$265,444,840          |
| <b>Total</b>          | <b>\$1,631,945,608</b> |

**Source:** Analysis of 100 percent Medicare Part B claims analytic files, FY 2024, from the CCW, accessed May 9, 2025.

**Notes:** Payments are based on estimated total non-hospice Medicare utilization (\$) per hospice service day, excluding utilization on hospice admission or live discharge days. Only Medicare paid amounts are included. The Medicare paid amounts were equally apportioned across the length of each claim and only the days that overlapped a hospice election (not including hospice admission or live discharge days) were counted.

Additionally, we analyzed the same principal diagnosis coding groups for Part D drugs paid outside of the hospice benefit.

**TABLE 8: Medicare Payments for Non-Hospice for Part D During Hospice Elections Provided to Hospice Beneficiaries (Part D Claims), FY2024**

| <b>Diagnosis Coding Group</b> | <b>Part D Payments</b> |
|-------------------------------|------------------------|
| Neurological/Degenerative     | \$205,128,738          |
| Heart/Cerebrovascular         | \$276,254,111          |
| Respiratory                   | \$100,380,848          |
| Cancer                        | \$86,405,092           |
| All Other Diseases            | \$144,939,013          |
| <b>Total</b>                  | <b>\$813,107,802</b>   |

**Source:** Analysis of 100 percent Medicare Part D claims analytic files, FY 2024, from the CCW, accessed May 9, 2025.

**Notes:** Payments are based on estimated total non-hospice Medicare utilization (\$) per hospice service day, excluding utilization on hospice admission or live discharge days. Only Medicare paid amounts are included. The Medicare paid amounts were equally apportioned across the length of each claim and only the days that overlapped a hospice election (not including hospice admission or live discharge days) were counted.

## NEUROLOGICAL AND DEGENERATIVE DISEASES

We grouped claims in this diagnostic coding group using ICD-10-CM codes for G30, G31, and G20. This group includes Alzheimer's disease, Parkinson's disease, and other degenerative diseases of the nervous system. In FY 2024 claims, there are about 48,840,937 hospice days and 1,951,568 hospice claims in this diagnosis coding group. The non-hospice spending for this category for DME and carrier claim types was about \$576 million. DME services that were billed during hospice stays related to these conditions during the same time included medical/surgical supplies, such as wound care supplies, catheters and incontinence

supplies, tubing, masks, and needles, costing about \$400 million, and wheelchairs, oxygen supplies, and hospital beds together cost about \$0.5 million. Part D drugs that were billed during hospice stays related to these conditions included (but are not limited to) about \$44.5 million for common palliative drugs, such as analgesics, anxiolytics, antiemetics, and laxatives; \$1.7 million for therapeutic nutrients and electrolytes; and \$0.8 million for diuretics.

## **CIRCULATORY AND CEREBROVASCULAR DISEASES**

We grouped claims in this diagnostic coding group using ICD-10-CM codes for I11, I25, I50, I63, I67, I69, and I13. This group includes circulatory and cerebrovascular diseases, such as heart failure, cerebrovascular diseases (stroke), ischemic heart disease, and hypertensive heart/kidney disease. In FY 2024 claims, there are about 47,380,977 hospice days and 1,938,372 hospice claims in this diagnosis coding group. The non-hospice spending for these conditions for DME and carrier claim types was about \$590 million. DME services that were billed during hospice stays related to these conditions during the same time included (but are not limited to) medical/surgical supplies costing about \$402 million; wheelchairs, oxygen supplies, and hospital beds together cost about \$1.1 million. Part D drugs that were billed during hospice stays related to these conditions included about \$177 million for anticoagulants, blood cell stimulations, beta blockers, vasodilators, and anti-hypertensives; \$18.6 million for common palliative drugs, such as analgesics, anxiolytics, antiemetics, and laxatives; \$3 million for therapeutic nutrients and electrolytes; and \$2.2 million for diuretics.

## **RESPIRATORY DISEASES**

We grouped claims in this diagnostic coding group using ICD-10-CM codes for J44 and J96. This group includes chronic obstructive pulmonary disease and respiratory. In FY 2024 claims, there are about 11,101,869 hospice days and 511,917 hospice claims in this diagnosis coding group. The non-hospice spending for this category for DME and carrier claim types was about \$95 million. DME services that were billed during hospice stays related to these conditions during the same time included medical/surgical supplies costing about \$50 million; wheelchairs,

oxygen supplies, and hospital beds together costing about \$0.5 million. Part D drugs that were billed during hospice stays related to this condition included (but are not limited to) about \$24 million for bronchodilators; \$7 million for common palliative drugs, such as analgesics, anxiolytics, antiemetics, and laxatives; \$0.6 million for therapeutic nutrients and electrolytes; and \$0.5 million for diuretics.

## **ALL CANCERS**

We grouped claims in this diagnostic coding group using ICD-10-CM codes for C00-D49. This group included all the diagnosis codes in the Neoplasms (C00-D49) Chapter in the ICD-10-CM. In FY 2024 claims, there are about 18,721,188 hospice days and 1,008,342 hospice claims in this diagnosis coding group. The non-hospice spending for this category for DME and carrier claim types was about \$106 million. DME services that were billed during hospice stays related to these conditions during the same time included medical/surgical supplies costing about \$46 million; wheelchairs, oxygen supplies, and hospital beds together cost about \$0.3 million. Part D drugs that were billed during hospice stays related to these conditions included (but are not limited to) about \$5.6 million for common palliative drugs, such as analgesics, anxiolytics, antiemetics, and laxatives; \$0.5 million for therapeutic nutrients and electrolytes; and \$0.4 million for diuretics.

For more detailed non-hospice spending data, the full file is available in the downloads section found at the FY 2027 Hospice Wage Index and Rate Update final rule link on the Hospice Center webpage at <https://www.cms.gov/medicare/enrollment-renewal/providers-suppliers/hospice-center>.

## **2. Service and Spending Variation Index (SSVI)**

CMS currently monitors and publicly shares data related to hospice utilization. Using the most recent, complete claims data, CMS analyzes Medicare spending, utilization by level of care, lengths of stay, live discharge rates, and skilled visits during the last days of life. Interested parties report that such data is useful in highlighting certain issues and trends regarding Medicare

policies. Additionally, we monitor a variety of other metrics from claims data including: percent of beneficiaries discharged with length of stay 180 days or more, percent of total discharges that were live discharges, total number of discharges (live or dead), average minutes of direct patient care per RHC day, average visits per RHC day, percent of RHC days on the weekend with at least one skilled visit, non-hospice spending per day, the percent of live discharges where a beneficiary returns to the same hospice within seven days, and total amount of non-hospice spending. By analyzing hospice utilization and other metrics, CMS can evaluate the behaviors of hospices to combat potential risks to the integrity of the Medicare program. For example, we focus on differences in live discharges because a brief discharge and quick readmittance can disrupt end of life care and may signal an agency is discharging patients to avoid covering costly treatments.

Analyzing these particular Medicare hospice metrics together is important because patterns across them can signal potential program integrity risks, inappropriate utilization, or quality of care concerns, especially when they deviate substantially between different hospices or from expected norms. For example, long lengths of stay combined with high live discharge rates may signal inappropriate enrollment of ineligible beneficiaries. Low number of visits, shorter visits, or fewer weekend visits may indicate minimal service provision. We recognize that patient census could vary year to year for each hospice (for example, in a given year, it may be possible that a hospice had a patient census that did not require any general inpatient level of care) and does not necessarily signal that a hospice is acting in an inappropriate manner. As such, we developed a scoring system, the SSVI, that is calculated using nine claims-based measures, each representing different aspects of hospice utilization as well as non-hospice spending. To calculate the SSVI score, we first determined a threshold for each of the nine metrics. For the non-hospice spending component of the SSVI score, we created eight separate thresholds for total non-hospice spending, as the degree to which a hospice spends outside of the hospice benefit can indicate varying levels of concern. For example, a hospice with higher non-hospice

spending levels receives a higher number of points than a hospice with about 12.5 percent less non-hospice spending. Metrics related to utilization reflect visit and discharge patterns. The SSVI can be used to identify hospices that are outliers across many different utilization metrics and those that have a high level of non-hospice spending. We established thresholds using percentiles. For most of the individual measures, we established the threshold at the top or bottom 25 percent of the distribution. It is important to note that falling into this quartile on a single measure does not necessarily indicate poor performance or improper practices. There are often legitimate operational reasons for a hospice to be an outlier in an isolated area. Instead, this 25 percent threshold acts as a preliminary filter. The objective of the SSVI is not to evaluate hospices based on a single metric, but to identify hospices that are outliers across multiple independent metrics. A hospice triggering the 25 percent threshold on at least one metric is not uncommon. A hospice triggering that threshold across many distinct metrics could indicate unusual utilization that may require further review.

For these utilization metrics, when a hospice's outcome for that metric surpasses the metric's threshold, then the hospice receives one point in its score for that metric. Second, we add each of the nine scores, that is, one score per metric, together to calculate the SSVI score. The total SSVI score is derived by adding together a hospice's total non-hospice spending score and their utilization score.

The lowest SSVI score a hospice can receive is zero, that is, a score of zero for each of the nine metrics, and the maximum SSVI score is 16, that is, with the highest points assigned for each of the nine metrics. A higher SSVI score represents a potential higher level of concern, as this may signal potential program integrity risks or inappropriate utilization especially when a hospice's SSVI score is substantially higher than its peers. In Table 9, we describe each of the nine metrics and the threshold values for those metrics. Given that we calculate a hospice's SSVI score using an evaluation of nine metrics, a high SSVI score indicates to CMS that a hospice might have more than one area of concern and may require additional targeted education or

oversight, such as medical review, education, and investigations that could result in payment suspension, and revocation, if there is identified fraud, waste, or abuse. In other words, each score used to calculate the SSVI score can be used to identify a specific area of concern for a hospice, and the SSVI score itself provides an aggregate measure to evaluate a hospice as a whole. The SSVI can assist interested parties in comparing hospices on a holistic scale.

Likewise, the SSVI is potentially another vehicle to target, and address fraud, waste, and abuse.

For example, higher spending outside the Medicare hospice benefit may be indicative of abusive billing because a hospice is paid a comprehensive per diem to cover essentially all care at the end of life. Excessive non-hospice spending, for either unrelated care or services and supplies which should be the hospice's responsibility, may undermine the financial integrity of the hospice benefit.

**TABLE 9: Description of SSVI Metrics, Threshold Values, and Points Allocated**

| <b>Metric Description</b>                                                                                                                        | <b>Threshold Value</b>                                                                                                                   | <b>Points</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Providing no Continuous Home Care and no General Inpatient Care (Utilization)                                                                    | 0                                                                                                                                        | 1             |
| Percentage of Routine Home Care days that are provided in a nursing home or skilled nursing facility (Utilization)                               | Greater than or equal to 40%                                                                                                             | 1             |
| Percent of the last two Routine Home Care days of life with visits (Utilization)                                                                 | Less than or equal to 25 <sup>th</sup> percentile (for FY 2025, the 25 <sup>th</sup> percentile was 85.7%)                               | 1             |
| Percentage of total discharges that are live discharges (Utilization)                                                                            | Greater than or equal to the 75 <sup>th</sup> percentile (for FY 2025, the 75 <sup>th</sup> percentile was 47.5%)                        | 1             |
| Percentage of discharges with a length of stay of over 180 days (Utilization)                                                                    | Greater than or equal to the 75 <sup>th</sup> Percentile (in FY 2025, the 75 <sup>th</sup> percentile was 33.2%)                         | 1             |
| Average skilled nursing minutes on Routine Home Care (Utilization)                                                                               | Less than or equal to 25 <sup>th</sup> Percentile (in FY 2025, the 25 <sup>th</sup> percentile was 9.8 minutes per day)                  | 1             |
| Weekend Routine Home Care days with a skilled visit (nursing, medical social worker, or therapy) as a percentage of total RHC days (Utilization) | Less than or equal to 25 <sup>th</sup> percentile (in FY 2025, the 25 <sup>th</sup> percentile was 4.8%)                                 | 1             |
| Percentage of live discharges where beneficiaries return to the same hospice in seven days (Utilization)                                         | Greater than or equal to 75 <sup>th</sup> percentile (in FY 2025, the 75 <sup>th</sup> percentile was 15%)                               | 1             |
| Total non-hospice spending                                                                                                                       | Greater than 0 and the lowest spending eighth of hospices (in FY 2025, values greater than 0 and less than or equal to \$6,352.84)       | 1             |
|                                                                                                                                                  | Between the lowest eighth and two-eighths of hospices (in FY 2025, values greater than \$6,352.84 and less than or equal to \$20,612.10) | 2             |

| <b>Metric Description</b> | <b>Threshold Value</b>                                                                                                                  | <b>Points</b> |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|---------------|
|                           | Between two-eighths and three-eighths of hospices (in FY 2025, values greater than \$20,612.10 and less than or equal to \$42,911.79)   | 3             |
|                           | Between three-eighths and half of hospices (in FY 2025, values greater than \$42,911.79 and less than or equal to \$76,801.05)          | 4             |
|                           | Between half and five-eighths of hospices (in FY 2025, values greater than \$76,801.05 and less than or equal to \$133,440.80)          | 5             |
|                           | Between five-eighths and six-eighths of hospices (in FY 2025, values greater than \$133,440.80 and less than or equal to \$246,123.10)  | 6             |
|                           | Between six-eighths and seven-eighths of hospices (in FY 2025, values greater than \$246,123.10 and less than or equal to \$517,204.40) | 7             |
|                           | Between seven-eighths and highest spending eighth of hospices (in FY 2025, values greater than \$517,204.40)                            | 8             |

We plan to determine the SSVI for individual hospices each FY using that applicable year's data. In this final rule, we are publishing the SSVI scores calculated from data for FYs 2024 and 2025 because these are our most recent and complete years of claims data. In subsequent rulemaking cycles, we would publish the updated SSVI, using the most recent claims data, with the final rule. The FY 2024 hospice SSVI includes 6,409,155 hospice claims, representing 6,735 hospices and a total of 148,012,785 hospice days. The FY 2025 hospice SSVI includes 6,773,919 hospice claims, representing 6,673 hospices and a total of 156,995,825 hospice days. Table 10 shows the distribution of the number of hospices by their total score for hospices in FYs 2024 and 2025 claims.

**TABLE 10: Distribution of SSVI Score for Hospices in FY 2024 and FY 2025 Hospice Claims**

|                    | <b>FY2025</b>             |                            | <b>FY2024</b>             |                            |
|--------------------|---------------------------|----------------------------|---------------------------|----------------------------|
| <b>Total Score</b> | <b>Number of Hospices</b> | <b>Percent of Hospices</b> | <b>Number of Hospices</b> | <b>Percent of Hospices</b> |
| 0                  | 4                         | 0.1%                       | 6                         | 0.1%                       |
| 1                  | 87                        | 1.3%                       | 91                        | 1.4%                       |

|                       | FY2025       |               | FY2024       |               |
|-----------------------|--------------|---------------|--------------|---------------|
| 2                     | 330          | 4.9%          | 334          | 5.0%          |
| 3                     | 517          | 7.7%          | 564          | 8.4%          |
| 4                     | 721          | 10.8%         | 760          | 11.3%         |
| 5                     | 893          | 13.4%         | 838          | 12.4%         |
| 6                     | 888          | 13.3%         | 918          | 13.6%         |
| 7                     | 912          | 13.7%         | 862          | 12.8%         |
| 8                     | 910          | 13.6%         | 920          | 13.7%         |
| 9                     | 577          | 8.6%          | 629          | 9.3%          |
| 10                    | 397          | 5.9%          | 366          | 5.4%          |
| 11                    | 241          | 3.6%          | 255          | 3.8%          |
| 12                    | 127          | 1.9%          | 116          | 1.7%          |
| 13                    | 53           | 0.8%          | 48           | 0.7%          |
| 14                    | 15           | 0.2%          | 28           | 0.4%          |
| 15                    | 1            | 0.0%          | 0            | 0.0%          |
| 16                    | 0            | 0.0%          | 0            | 0.0%          |
| <b>Total Hospices</b> | <b>6,673</b> | <b>100.0%</b> | <b>6,735</b> | <b>100.0%</b> |

**Note:** The development of the FY 2025 Hospice SSVI included 6,773,919 hospice claims, representing 6,673 hospices and a total of 156,995,825 hospice days. The data used was pulled from the CCW VRDC on May 12, 2026. The development of the FY 2024 Hospice SSVI included 6,409,155 hospice claims, representing 6,735 hospices and a total of 148,012,785 hospice days. The data used was pulled from the CCW VRDC on May 9, 2025.

We will post the metrics and the SSVI scores for FYs 2024 and 2025, additional data from claims-based measures, and related documentation on the methodology on our Hospice Information webpage at <https://www.cms.gov/hospice-information-center>. Our goal is to identify individual hospice vulnerabilities to help focus program integrity efforts, such as conducting medical reviews, providing additional education, and conducting investigations into individual hospices that could result in administrative actions like payment suspension and/or revocation of hospices demonstrating fraudulent behavior. We also believe the public will benefit from the enhanced transparency this data provides, allowing beneficiaries and their families the ability to make more informed choices regarding care at the end of life. We sought feedback on the metrics used to calculate the SSVI score as well as thoughts and suggestions regarding the threshold values and point assignments.

We received public comments on the metrics used to calculate the SSVI scores. The following is a summary of the comments we received and our responses.

*Comment:* We received comments from interested parties opposing the use of the SSVI due to methodological concerns, such as thresholds used for the scoring assignment, the validity of the measures used, divergence between SSVI and the hospice care index (HCI), and the overemphasis on non-hospice spending in the scoring. Some commenters recommended CMS take down the SSVI from public view, opposed the use of the SSVI for targeting oversight efforts, and recommended delaying the implementation of the SSVI. Many commenters opposed the use of the SSVI and the overall use of administrative data for oversight, stating that claims-based measures may not help target medical reviews and investigations related to fraud, waste, and abuse. Commenters described the current SSVI framework as unable to distinguish between inappropriate utilization and clinically appropriate hospice care. Commenters also requested more transparency, such as provider-specific preview reports, clear attribution rules, threshold and point-assignment logic, and correction and reconsideration rights.

*Response:* We thank the commenters for their recommendations. We remind commenters that the SSVI is a descriptive tool that uses a scoring system that represents different aspects of hospice utilization, as well as non-hospice spending, thereby scoring hospices comprehensively, rather than on a single care dimension. In other words, the SSVI can be used to identify specific areas of concern indicated for a hospice as well as aggregate different measures to simplify comparison between hospices. This approach supports our transparency efforts for hospices, beneficiaries, and advocacy organizations to have more information about how a specific hospice may be performing relative to other hospices.

The SSVI will be one of several sources of information that contributes to program integrity actions. The concerns about the thresholds used for the scoring assignment, such as the use of the 25<sup>th</sup> and 75<sup>th</sup> percentiles as a threshold for flagging hospices, highlight a misunderstanding of how the SSVI tool can be used to compare hospices. We agree that identifying the 25 percent of hospices on each measure is not a valid approach to identifying outliers. The current scoring assignment for the SSVI aims to identify outliers by flagging

hospices with a high score based on the thresholds for multiple measures. In other words, when hospices are assigned a point for multiple measures, we can see that those hospices have utilization that is different from their peers. We would consider a hospice with 13 or more points an outlier as it would be at 99<sup>th</sup> percentile of the hospices based on the distribution of the SSVI score. We believe that the SSVI is vital to provide information to interested parties, such as beneficiaries and caregivers, about hospice providers that are not publicly available outside of this tool. Therefore, we do not believe it is in the best interest of beneficiaries and their caregivers to remove the SSVI from the CMS website. Providing this information publicly supports CMS' efforts to provide transparent data to interested parties.

Based on the distribution of the SSVI score for FY 2025 claims presented in Table 10, we see that there are 69 hospices that have an SSVI score above 13. The SSVI helps identify hospices that received 13 points or more as above the 99<sup>th</sup> percentile of total hospices. We can also see that the hospices with 13 points or more have higher levels of non-hospice spending at the 7<sup>th</sup> or 8<sup>th</sup> octile and also have a score higher than 4 for the score related to utilization measures. In other words, hospices that have high total non-hospice spending levels also have utilization trends that may be areas of concern. This is important as we are using the SSVI score as a summary to aggregate measures to describe hospices relative to each other.

The measures and scoring assignment for the SSVI may change over time as we consider the comments received and changes in hospice trends. We remind commenters that the SSVI is a tool that aggregates and presents information for the hospice patients, interested party groups, and the general public to be able to compare hospices without needing to conduct analysis and obtain a data use agreement. We describe the score assignment logic and attribution rules in the accompanying document, titled "SSVI Overview", which was posted along with the SSVI. We will continue to provide the document with the SSVI along with this final rule and subsequent rulemaking cycles.

We acknowledge the limits of claim-based measures and are open to learning more about

the available data for analysis to distinguish between inappropriate utilization and clinically appropriate hospice care. We believe the measures we chose, including but not limited to “Total Non-Hospice Spending”, “Percent of Live Discharges where Beneficiaries Return to the Same Hospice in Seven Days”, “Percent of Beneficiaries who Died in Hospice and Last Two Days were RHC with at Least One Skilled Visit During Last Two Days”, and “Percent of Discharges (Live or Dead) that Were Live Discharges”, are reasonable measures to identify hospices that exceed the criterion threshold as potential indicators of inappropriate utilization.

For total non-hospice spending, we acknowledge that hospices with a higher hospice beneficiary census would likely have higher non-hospice spending. The SSVI also shows that the top 100 hospices for total non-hospice spending includes hospices with less than 5,000 hospice days to more than 25,000. The range of hospice size that contributes to high levels of total non-hospice spending suggests that non-hospice spending is a behavior that is occurring across the hospice market and warrants further analysis. In addition, we provide a measure of “Non-Hospice Spending per Day (All Days Only From Beneficiaries with Non-Hospice Spending)” that provides a per-capita measure that standardizes total non-hospice spending. If non-hospice spending is a behavior that is occurring across the hospice market, then focusing on non-hospice spending per day may not properly highlight the hospices with high total non-hospice spending and higher census of beneficiaries.

We chose to assign scoring for total non-hospice spending to a distribution using octiles to weigh non-hospice spending in the scoring to reflect the concern of growing non-hospice spending and to highlight the widespread practice of non-hospice spending. We chose octile distribution for score assignment related to non-hospice spending to apply an equal weight to address concerns for non-hospice spending and utilization patterns. We assign eight points for crossing threshold for utilization patterns and points that correspond with the octile for non-hospice spending level. Our scoring assignment decision for comparing individual hospice non-hospice spending levels aims to improve public transparency around the amount billed to other

Medicare providers rather than hospices. As stated earlier, non-hospice spending is an issue that may arise from hospices misclassifying conditions, referring patients to non-hospice providers, failing to coordinate care, or deliberately avoiding costs. We chose the scoring assignment to simplify comparison for non-hospice spending patterns between hospices and to account for the total amount billed outside of the Medicare hospice benefit. We want interested parties to be aware of the hospice for which the non-hospice spending is attributed. It is important information relevant to beneficiaries and caregivers because non-hospice services received outside of the Medicare hospice benefit are subject to beneficiary cost sharing. In FY 2024, the total beneficiary cost sharing amount for beneficiaries electing the hospice benefit was \$510 million for Parts A and B.

We monitor live discharges from hospice as long lengths of stay combined with high live discharge rates may signal inappropriate enrollment of ineligible beneficiaries. We are interested to learn more about what commenters meant by the many legitimate reasons for administrative discharge. When FY 2025 claims show that more than 400 hospices have 90 to 100 percent live discharge rates and 25 hospices have 50 percent or more live discharge rates returning in 7 days, it is unclear whether the high live discharge rates are due to beneficiary choice or whether there is inappropriate enrollment and the hospices warrant further review.

We are also concerned that there are over 100 hospices that have no beneficiaries who died in hospice with the last two days as RHC with at least one skilled visit during last 2 days. The hospices that have 0 to 25 percent of beneficiaries under this measure range in hospice size and total non-hospice spending. We believe that this measure in conjunction with other utilization measures highlight concerning utilization patterns.

The SSVI is designed to complement the HCI's claim-based measures. We expected that the specificity of the SSVI utilization measures with 25 and 75 percentiles as thresholds for score assignment would help identify hospices that have more than one area of concern. Since the measures are claims-based and will not replace any existing measures, it is unclear how we

would include a reconsideration process for changing the SSVI score or a provider-specific preview for individual hospices. In other words, the claims-based measures used in the SSVI use data inputs from finalized claims submitted by the hospices. Similarly to the HCI, the SSVI will help patients, families, and caregivers choose between hospice providers based on the factors that matter most to them so they can make the best possible decisions. For these reasons, we believe that we should proceed with publicly releasing information and the SSVI to improve beneficiary choice for hospice care.

*Final Decision:* We thank commenters for these comments. After consideration of public comments, we are maintaining the design of the SSVI using the current measures and scoring assignments.

### *C. Election Statement Addendum Changes*

#### 1. Background

Hospice care is a comprehensive, holistic approach to treatment that recognizes the impending death of an individual may necessitate a transition from curative to palliative care if the individual so chooses. Medicare hospice care services are virtually all-inclusive, and are focused on meeting the physical, emotional, psychosocial, and spiritual needs of the terminally ill individual and his or her family. In order to make an informed choice about whether to receive hospice care, the patient, family, and caregiver must have an understanding of what services are going to be provided by the hospice and that, because there is no longer a reasonable expectation for a cure, care should now focus on comfort and quality of life. The services covered under the Medicare hospice benefit are comprehensive such that, upon election, the individual waives all rights to Medicare payment for services related to the treatment of the individual's condition with respect to which a diagnosis of terminal illness has been made, except when provided by the designated hospice or attending physician. Because of the significance of this decision, the terminally ill individual must elect hospice care in order to receive services under the Medicare hospice benefit. Since we first implemented the Medicare hospice benefit in 1983, it has been

our general view that the waiver required by law requires hospices to provide virtually all the care that is needed by terminally ill patients (48 FR 56010). In the FY 2020 Hospice Wage Index and Payment Rate Update final rule (84 FR 38484), we finalized a policy, for elections beginning on and after October 1, 2020, that requires hospices to provide a hospice election statement addendum to beneficiaries, their representatives, non-hospice providers, or Medicare contractors, upon request. The purpose of the addendum is to notify the hospice beneficiary (or representative) of those conditions, items, services, and drugs the hospice will not be covering because the hospice has determined they are unrelated to the beneficiary's terminal illness and related conditions. The addendum is subject to review and must be updated, as needed, when the plan of care is updated in accordance with § 418.56. The hospice must provide these updates, in writing, to the beneficiary (or representative).

Currently, if the beneficiary (or representative) requests an addendum at the time of hospice election (that is, within the first 5 days of the hospice election date), the hospice would have 5 days from the date of the request to furnish this information in writing. If the addendum is requested during the course of hospice care (that is, after the first 5 days of the date of the hospice election), the hospice has 3 days from the date of the request to provide the addendum in writing. However, if the beneficiary dies, revokes, or is discharged within the required timeframes, the hospice would not be required to furnish the addendum in this circumstance. These timeframes, and others, for providing the addendum are outlined in § 418.24(d). The required content of the hospice election statement addendum is outlined generally below and described in § 418.24(c) (OMB Control Number: 0938-1067/Expiration date: 2/28/2029):

- The addendum title (“Patient Notification of Hospice Non-Covered Items, Services, and Drugs”);
- Hospice name;
- Individual's name and medical record identifier;
- Identification of the terminal illness and related conditions;

- A list of the individual's conditions present on hospice admission (or upon POC update) and the associated items, services, and drugs not covered by the hospice because they have been determined by the hospice to be unrelated to the terminal illness and related conditions;

- A written clinical explanation written in language that the beneficiary (or representative) can understand;

- References to relevant any clinical practice, policy, or coverage guidelines;

- Information on the purpose of the addendum and the right to immediate advocacy through the Medicare Beneficiary and Family Centered Care-Quality Improvement Organization (BFCC-QIO) if the individual (or representative) disagrees with the hospice's determination;

- Individual (or representative) name, signature, and date signed, along with a statement that signing the addendum (or its updates) is only acknowledgement of receipt of the addendum (or its updates) and not the individual's (or representative's) agreement with the hospice determinations; and

- The date the hospice furnished the addendum.

## 2. Mandatory Hospice Election Statement Addendum for all Elections

We proposed requiring that hospices provide the hospice election statement addendum to all Medicare beneficiaries at the time of hospice election for hospice elections beginning on or after October 1, 2026. Section 1812(d)(1) of the Act requires beneficiaries to affirmatively elect hospice care, and the hospice election involves a significant waiver of Medicare rights, as beneficiaries waive all rights to Medicare payment for services related to the treatment of their terminal illness and related conditions, except for services provided by the designated hospice and attending physician, pursuant to section 1812(d)(2)(A) of the Act. Given the magnitude of this decision and its impact on beneficiary rights and access to care, it is essential that beneficiaries receive complete information about what services will and will not be covered by the hospice at the time of election to ensure truly informed consent. Covered entities must

furnish appropriate auxiliary aids and services when necessary to ensure effective communication with individuals with disabilities. They also must take reasonable steps to provide meaningful access to individuals who are limited English proficient including the provision of interpreter and translation services free of charge when needed.

Additionally, section 1871 of the Act provides the Secretary with broad authority to prescribe regulations necessary to carry out the administration of the Medicare program, including the authority to establish provider conditions of participation, payment requirements, and beneficiary rights and protections. Specifically, section 1871(f)(1) specifies that the Secretary should make efforts to reduce inconsistency or conflicts for individuals entitled to Medicare benefits. Under this authority, and consistent with our obligation to ensure beneficiary protection and program integrity, we require that hospices provide comprehensive disclosure of coverage determinations to all beneficiaries electing the hospice benefit.

In the FY 2020 Hospice Wage Index and Payment Rate Update proposed rule (84 FR 17570), CMS reiterated that hospice services should be providing virtually all the care needed by the terminally ill individual. CMS also reiterated that coverage decisions and treatment determinations should take into account multiple factors, including not only the opinion of the treating physician, but also other factors such as the condition of the patient upon admission, the nature of the principal diagnosis, and the existence of comorbid conditions, as these all play an important role in coverage determinations. Determinations about unrelated conditions, items, services, and drugs for each patient should take into account the needs, preferences, and goals of the terminally ill individual and his or her family; review of all of the beneficiary's conditions, related and unrelated to the terminal illness and related conditions; and current clinically relevant information supporting all diagnoses as required by regulation at § 418.25. This process requires clinical judgment in which hospices need to consider clinical practice guidelines and relevant research when making determinations of whether items, services, and drugs are related or unrelated to the terminal illness and related conditions.

The significant increases in non-hospice spending patterns, as discussed in section III.B.1. of this final rule, suggest that the current framework, where the hospice election statement addendum is provided only upon request, has not achieved the intended accountability objective of ensuring that hospices provide virtually all care needed by terminally ill individuals as required under the comprehensive and holistic Medicare hospice benefit. Most notably, as discussed in section III.B.1. of this final rule, Medicare non-hospice spending for Parts A and B increased from nearly \$790 million in FY 2020 to over \$2 billion in FY 2024, representing a 160 percent increase, demonstrating that the voluntary nature of the current addendum requirement has not adequately addressed coverage transparency concerns or stemmed inappropriate billing of services outside of the hospice benefit. Additionally, many beneficiaries may not understand the importance of requesting the addendum, may not understand their right to receive this information, or may not receive it in time to make fully informed decisions about their care, also not achieving the intended transparency objective. Further, the substantial growth in non-hospice spending, particularly for services that may be related to the terminal illness and related conditions, indicates potential gaps in coverage transparency and coordination between hospice and non-hospice providers.

Per the hospice CoPs at § 418.56(e)(5), hospices are required to develop and maintain a system of communication and integration among all providers furnishing care to the terminally ill patient. This includes the ongoing sharing of information with other non-hospice healthcare providers and suppliers furnishing services unrelated to the terminal illness and related conditions is necessary to ensure coordination of services and to meet the patient, family, and caregiver needs. Despite this CoP requirement, we continue to receive reports from non-hospice providers stating that they are not provided a beneficiary's addendum when requested from the hospice, are unable to reach, or do not receive communication from the hospice to discuss the hospice beneficiary's coordination of services that the hospice has determined unrelated to his or her terminal illness and related condition(s). Similarly, we have also received reports from non-

hospice providers who state that hospices are requesting that services be billed to Medicare Part A and B, other inquiries where non-hospice providers are requesting payment from hospices for services that should be the hospices' coverage responsibility but where the hospices have not paid for such services or do not respond to these requests, and hospices who state they were unaware that patients had received care from non-hospice providers. Additionally, if a beneficiary receives services related to the terminal illness and related conditions and the hospice did not arrange for such care, the beneficiary, potentially unknowingly, would be liable for the costs related to those services. Likewise, Medicare would be making duplicative payments for care related to the terminal illness and related conditions if non-hospice providers bill Medicare for services that should have been the coverage responsibility of the hospice.

Additionally, the Office of Inspector General (OIG) has completed audits on non-hospice spending for outpatient services provided to hospice beneficiaries<sup>8</sup>, Medicare payments to non-hospice providers for items and services provided to hospice beneficiaries<sup>9</sup>, and improper Medicare payments for durable medical equipment, prosthetics, orthotics, and supplies provided to hospice beneficiaries<sup>10</sup>. These reports highlight vulnerabilities in the Medicare hospice benefit and describe fragmented care that beneficiaries may experience under a hospice election.

In the FY 2022 Hospice Wage Index and Payment Rate Update proposed rule (86 FR 42528), we requested feedback from interested parties as to whether the hospice election statement addendum has changed the way hospices make care decisions and how the addendum is used to prompt discussions with beneficiaries and non-hospice providers to promote the care needs of hospice beneficiaries. The responses revealed that the FY 2020 addendum provisions

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<sup>8</sup> Medicare Improperly Paid Acute-Care Hospitals an Estimated \$190 Million Over 5 Years for Outpatient Services Provided to Hospice Enrollees (A-09-23-03024). November 12, 2024. <https://oig.hhs.gov/documents/audit/10055/A-09-23-03024.pdf>.

<sup>9</sup> Medicare Payments of \$6.6 Billion to Nonhospice Providers Over 10 Years for Items and Services Provided to Hospice Beneficiaries Suggest the Need for Increased Oversight (A-09-20-03015). February 14, 2022. <https://oig.hhs.gov/documents/audit/9604/A-09-20-03015-Complete%20Report.pdf>.

<sup>10</sup> Medicare Improperly Paid Suppliers an Estimated \$117 Million Over 4 Years for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Provided to Hospice Beneficiaries (A-09-20-03026). November 16, 2021. <https://oig.hhs.gov/documents/audit/9609/A-09-20-03026-Complete%20Report.pdf>.

(84 FR 38484) enhanced communication during the admission process and prompted hospice providers to ensure patients are receiving all services necessary for symptom management regardless of the primary diagnosis. However, the feedback also included reports that very few patients and their representatives had requested the addendum and that the burden of implementation of the addendum outweighed the benefit.

In the FY 2024 Hospice Wage Index and Payment Rate Update proposed rule (88 FR 20022), we solicited feedback on how to work with hospice providers to ensure Medicare beneficiaries and their families are aware of coverage under the hospice benefit and how to enhance transparency. Comments discussed in the FY 2024 Hospice Wage Index and Payment Rate Update final rule (88 FR 51164) emphasized the critical need for CMS education directed toward patients and families about transitioning from curative to palliative interventions at the time of hospice admission. Specifically, several commenters suggested that the hospice election statement addendum (titled “Patient Notification of Hospice Non-Covered Items, Services, and Drugs”) should be provided to all patients at the time of hospice election or as part of the care plan, rather than only upon request. Commenters noted that hospice providers, non-hospice providers, Medicare beneficiaries, and their families need more information to understand coverage distinctions and that hospice providers must share this information with patients at the time of, and throughout, the hospice election.

Based on the FY 2022 feedback from interested parties indicating a low volume of requests, the continued growth in non-hospice spending, and the FY 2024 feedback from interested parties requesting mandatory provision of the addendum at the time of election, we proposed requiring that hospices provide the hospice election statement addendum to all Medicare beneficiaries at the time of hospice election for hospice elections beginning on or after October 1, 2026. We noted that we would require hospices to furnish the addendum within the first 5 days of a hospice election (that is, within the first 5 days of the effective date of the hospice election), and any updates to the addendum within 3 days of changes to the plan of care

that impact the addendum determinations, in writing, to the individual (or representative), and to make the addendum available for non-hospice providers and Medicare contractors. We also noted that this proposal would modify the current requirement at § 418.24(b)(6), (c), and (d), which establishes the addendum as a condition of payment only when requested by beneficiaries, their representatives, non-hospice providers, or Medicare contractors. As such, we proposed amending § 418.24 to include the previously stated provisions related to making the hospice addendum mandatory at the time of hospice election. We reminded readers that hospices may provide the election statement addendum in any format that best suits their needs, provided that the content requirements at § 418.24(b) and (c) are met (85 FR 47070); however, if desired, a model hospice election statement addendum is available in the Downloads section on the Hospice webpage at <https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice>.

As discussed in the FY 2020 Hospice Wage Index and Payment Rate Update final rule (84 FR 38484), and again in section IV.B. of this final rule, hospices are already required to make determinations about related versus unrelated conditions, items, and services as part of their comprehensive assessment and care planning processes. The mandatory addendum requirement would formalize and standardize the communication of these existing determinations to beneficiaries and their representatives. A one-time form development burden estimate was completed in FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484). This burden estimate also accounted for the approximate amount of time it would take a hospice to complete the addendum and used the assumption that hospices would provide the addendum to all beneficiaries; it reflected an estimated \$11.2 million in total costs to hospice providers. Despite this estimated cost to providers, the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484) reflected an estimated \$5.2 million net reduction in total provider (that is, hospice provider and non-hospice provider) burden. This net reduction resulted from an estimated \$16.5 million burden reduction for non-hospice providers due to reduced time spent by non-hospice providers, including institutional, non-institutional and pharmacy providers

on obtaining needed information for treatment decisions and accurate claims submissions.

While the burden estimates completed in FY 2020 (84 FR 38484) already assumed that hospices would provide the addendum to all beneficiaries, we have updated the burden estimates, in section IV.C. of this final rule, with more recent data that reflects the increase in hospices and hospice elections on the estimated hospice burden associated with the mandatory election statement addendum for all elections; this includes a burden reduction estimate for non-hospice providers. The FY 2027 burden estimates continue to demonstrate a significant total overall burden reduction for non-hospice providers of \$40.6 million, as well as a net hospice provider burden reduction of \$20.8 million.

We received a significant number of public comments on our proposal to make the hospice election statement addendum mandatory for all hospice elections, not just upon request. The comments also addressed non-hospice spending and burden estimates associated with the election statement addendum. Commenters included hospices, non-hospice providers, national and State industry associations, individual commenters, as well as the Medicare Payment Advisory Commission (MedPAC). The following is a summary of the comments we received and our responses.

## **NON-HOSPICE SPENDING**

*Comment:* Commenters specifically raised skin substitutes as a primary driver of non-hospice spending growth and argued that hospices should not be held accountable for spending they do not control. Some of the commenters raised concerns for beneficiaries' safety as they received reports of instances where wound care companies refuse to stop treating hospice enrolled beneficiaries when the hospice has deemed the wound care related to the terminal condition or related conditions. Other commenters raised concerns about hospices frequently classifying wound care inappropriately as unrelated to the terminal illness, specifically for patients with non-cancer diagnoses, such as those with dementia and cardiac disease, who are at higher risk for pressure ulcers; these commenters questioned whether hospices are performing

adequate skin integrity assessments and properly addressing wound care needs. Similarly, several commenters reported that hospices frequently classify chronic conditions such as diabetes, arthritis, gout, hypothyroidism, glaucoma, and macular degeneration as unrelated to the terminal illness. Commenters noted their belief that these situations are significantly contributing to the growth of Part D non-hospice spending. Additionally, one commenter argued that some non-hospice spending is a result of the patient choosing to continue taking medications that they noted promote their well-being, despite hospice education indicating that the medication may no longer be medically necessary. A few commenters also raised concerns related to modifier codes and claims processing workflow concerns that may be contributing to Medicare non-hospice spending such as CC07 and GW modifier bypass mechanisms process claims without semantic interrogation, GV and GW modifier claims incorrectly included in non-hospice spending data, reports that hospices unaware when GV modifiers are attached to non-hospice bills, and a report that 22 percent of claims have no modifier. MedPAC, patient advocacy groups, and a non-hospice provider group submitted comments that were contrary to those of hospice providers and hospice agency advocacy groups, citing concerns regarding duplicate billing and confusion, wasted resources, communication burden, inability to reach hospice providers, as well as unexpected and increased out-of-pocket costs and cost-sharing obligations to beneficiaries. MedPAC specifically expressed significant concern about non-hospice spending for hospice enrollees and reported that they have been tracking non-hospice spending and identified several reasons for their concerns including duplicate Medicare payments, increased beneficiary cost-sharing, and fragmented care that may be increasing confusion not only for beneficiaries, but also for their families, hospices, other providers, pharmacies, and Part D plans.

*Response:* We acknowledge the commenters' concerns regarding skin substitute fraud as a significant driver of non-hospice spending growth. As documented in this year's proposed rule (91 FR 17338), carrier claims for pressure ulcers increased by nearly 4,000 percent from FY 2020 to FY 2024; these claims are largely associated with skin substitutes. As previously stated

in the FY 2027 Hospice Wage Index and Rate Update proposed rule (91 FR 17338), we have already taken significant action to address this issue, such as implementing major changes to skin substitute payments, and transitioning most products to a single national unified rate, addressing overutilization concerns, and requiring prior authorization for skin allograft HCPCS codes.

However, we disagree with the characterization that skin substitute spending during hospice elections is solely attributable to non-hospice provider fraud outside the hospice's control. Pressure ulcers are a foreseeable and preventable complication of terminal illness, particularly for bedbound and chairbound patients with neurological, cardiac, and respiratory diagnoses, which collectively account for approximately 75 percent of documented non-hospice spending. Additionally, we continue to reiterate that the hospice is required to provide virtually all care needed by the beneficiary who has elected hospice for the management of their terminal illness and any related conditions; any items, services, or drugs that the hospice deems unrelated to the terminal illness or related conditions should be exceptional, rare, and unusual (§ 418.24(b)(3), 48 FR 56010, 84 FR 38509, 85 FR 47091, 86 FR 19713, 88 FR 20032, 89 FR 64202). As such, pressure ulcers that develop as a direct consequence of the patient's deconditioned state, due to their terminal illness or related conditions, would not be exceptional or unusual and, therefore, are expected to be covered under the hospice benefit. As stated in the proposed rule and by some commenters, the high incidence of wound care needs in hospice patients raises concerns as to why hospices are not providing needed wound care for pressure ulcers, given that these wounds generally develop from unrelieved pressure as a result of limited mobility in terminally ill individuals who are chairbound or bedbound, a condition directly related to the terminal illness or related conditions that should be covered under the hospice benefit.

We are also concerned that the dramatic increase in non-hospice skin substitute billing suggests that some hospices may not be conducting adequate skin integrity assessments at admission and on an ongoing basis, properly documenting the relationship between skin

breakdown and the terminal illness or related conditions, including wound care in the plan of care, or covering wound care under the hospice benefit as required under §§ 418.54 and 418.56. The proposed mandatory election statement addendum directly addresses this concern by requiring hospices to document and disclose all items, services, and drugs determined to be unrelated to the terminal illness or related conditions, thereby improving hospice accountability and transparency for the hospice beneficiary. The addendum could also be used by MACs and for program integrity efforts to combat some inappropriate wound care company practices described by some commenters.

Additionally, we acknowledge the clinical complexity of coverage determinations for chronic conditions in patients whose terminal illness or related conditions have a documented metabolic, cardiovascular, or musculoskeletal component. Coverage determinations must be made on an individualized, patient-specific basis. When a patient's terminal illness or related conditions includes a condition with a documented metabolic component, medications needed to treat these chronic conditions are likely related to the terminal illness or related conditions and should be covered under the hospice benefit. Similarly, when a chronic condition has a documented inflammatory or vascular component that interacts with the terminal illness or related conditions, medications to manage these chronic conditions may also be related. Some commenters reported that hospices frequently classify diabetes and arthritis medications as unrelated to the terminal condition without individualized clinical justification; this scenario is inconsistent with our long-standing position that virtually all care needed by the terminally ill beneficiary should be covered by the hospice (48 FR 56010). The proposed mandatory addendum supports appropriate coverage determinations for these conditions by requiring documentation and disclosure of all unrelated determinations, creating a record that MACs can review to assess whether classifications are clinically defensible, and increasing hospices' accountability, transparency, and beneficiary (or representatives) education regarding why specific items, services, or drugs have been determined to be unrelated to the terminal illness or

related conditions.

Finally, we appreciate commenters' remarks and suggestions related to modifier codes and claims processing workflow concerns that may be contributing to Medicare non-hospice spending. We routinely provide information on various aspects of the Medicare program, including educational materials on Medicare benefits and claims processing, MLN<sup>®</sup> matters articles<sup>11</sup>, and the Medicare claims processing manual<sup>12</sup> to provide education and resources to physicians, other providers of services, and MACs. We also appreciate comments that support our efforts to address non-hospice spending, and we agree with commenters' concerns related to beneficiaries' rights, program integrity concerns, duplicate billing, wasted resources, communication burden, inappropriate cost-sharing, and lack of transparency. We will continue to consider the concerns raised and the suggestions provided for future rulemaking, as appropriate.

We received public comments on our proposed burden estimates. The following is a summary of the comments we received and our responses.

## **BURDEN ESTIMATES**

*Comment:* Several commenters noted their belief that CMS' burden estimate is outdated, underestimated, or otherwise flawed; reasons reported included current operational realities, staffing shortages, the complexity of individualized addendum preparation, a limited number of beneficiaries currently requesting the addendum and that only a small percentage of admissions have a completed addendum, electronic health record configuration costs, reports of the proposed timeframe requirements creating unintended consequences. In addition, a commenter reported that the addendum process and contents were not changed making the proposal for a mandatory election statement less feasible; another commenter reported that busy hospice agencies will experience a higher administrative burden and that the requirement will be cumbersome. Additionally, one commenter reported that 55 percent of hospice beneficiaries did not have any

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<sup>11</sup> <https://www.cms.gov/medicare/payment/prospective-payment-systems/hospice/hospice-educational-resources>.

<sup>12</sup> <https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/clm104c11.pdf>.

non-hospice spending in FY 2024, arguing that this statistic supports retaining the current request-only addendum framework. Conversely, a non-hospice provider group supported the projected net burden reduction for non-hospice providers, specifically noting that the amount of time needed to communicate with hospice providers would reduce significantly.

*Response:* We appreciate the detailed operational feedback provided by commenters regarding the burden estimate for the proposed mandatory election statement addendum. We acknowledge commenters' concerns and take seriously the operational challenges identified by hospice providers, hospice advocacy groups, and electronic health record vendors. As commenters acknowledge, the burden estimate completed in the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38534) was calculated under the assumption that hospices would provide the addendum to all beneficiaries, not just those who request it. This means that the FY 2020 estimate already accounted for the full volume of addenda that would be required under the mandatory proposal. A one-time addendum form development cost was accounted for in the FY 2020 burden estimates and despite the cost for initial form development, there was still a \$5.2 million net reduction in total provider burden. The FY 2027 updated burden estimates continue to demonstrate a significant total overall burden reduction to hospice and non-hospice providers. Furthermore, addenda completed for beneficiaries with no non-covered items would require significantly less time for the hospice to complete given that the form would not have a documented list of items, services or drugs or the hospice could simply acknowledge on the form that there are no unrelated items, services or drugs, thereby reducing the overall estimated burden.

We appreciate commenters reiterating that the FY 2020 burden estimate assumed hospices would provide the addendum to all beneficiaries, and that some individuals do not have any non-covered items; specifically, one commenter reported that 55 percent of hospice beneficiaries did not have any non-hospice spending in FY 2024. Given this information, the burden for those hospice beneficiaries would be lower than what the burden estimate accounts

for, as addenda with no non-covered items would be significantly faster to complete and explain to the patient. The addendum for a patient with no non-covered items is, by definition, a straightforward document and the clinical determination that all care is related to the terminal illness or related conditions is one that hospices are already required to make as part of the comprehensive assessment and care planning process under the hospice CoPs.

We reiterate that it is a longstanding CoP (§418.56(e)(5)) that hospices are already required to develop and maintain a system of communication and integration among all providers furnishing care to the terminally ill patient. This includes the ongoing sharing of information with other non-hospice healthcare providers and suppliers furnishing services unrelated to the terminal illness and related conditions, which is necessary to ensure coordination of services and to meet the patient, family, and caregiver needs. The mandatory addendum requirement does not create a new substantive clinical obligation; rather, it formalizes and standardizes the communication of existing determinations that hospices are already required to make. As hospices are already required to review, determine, and document information on unrelated conditions per the hospice regulations and CoPs, the incremental burden of converting those determinations into a written, beneficiary-facing addendum is appropriately characterized in the burden estimates. The numerous comments received regarding concerns about the burden associated with communication obligations that have been longstanding CoP requirements, in conjunction with the drastic increases in non-hospice spending, reports from electronic health record vendors that there are common unrelated items identified for hospice beneficiaries, and the significant opposition from hospice providers to providing addenda to hospice beneficiaries, raise concern as to why hospice providers are opposed to providing written documentation of information that is already required to be communicated among all providers, hospice beneficiaries, and their families, and why hospice providers are stating that more time is needed to complete the addendum when hospices should be providing virtually all of the care that is needed for terminally ill beneficiaries (48 FR 56010, § 418.24(b)(3)), which includes not only

the beneficiary's terminal diagnosis but also any related conditions.

We received numerous public comments on our proposal to require the election statement addendum be provided at the time of hospice election. A summary of the comments and our responses to those comments are as follows:

## **ELECTION STATEMENT ADDENDUM**

*Comment:* Many commenters stated that the proposed mandatory statement addendum would not address the root causes of non-hospice spending, report concerns that the addendum may confuse patients, claim denial concerns, and requested explanations as to why a mandatory election statement addendum is necessary and appropriate first step, even if it does not fully resolve the growth in non-hospice spending. We also received comments that supported the proposed mandatory addendum for its potential to save Medicare program expenditures, reduce beneficiary cost-sharing, support more complete corrective architecture to help at-risk elderly populations, and to decrease non-hospice spending. A commenter requested evidence that the proposed mandatory addendum would meaningfully reduce non-hospice spending. Another commenter reported that 55 percent of hospice beneficiaries in FY 2024 had no non-hospice spending and argued that this is a reason to retain the request-only addendum framework. A commenter reported that only 1 in 5 patients requests the addendum, and another commenter reported that 5 to 7 percent of admissions have completed addenda. Some commenters raised concerns regarding the proposed mandatory addendum's impact on claims processing, specifically claims denials. A commenter also recommended that we develop national examples for items, services, and drugs that are commonly identified as related to the terminal illness and related conditions, such as inhalers, oxygen, wound care supplies, durable medical equipment, anticoagulants, diabetic supplies, and medications used for both disease treatment and symptom relief, to assist hospices in making and documenting individualized relatedness determinations.

*Response:* We acknowledge commenters request for evidence that the proposed mandatory addendum would meaningfully reduce non-hospice spending and concerns that the

proposed mandatory hospice election statement addendum does not, by itself, resolve all root causes of non-hospice spending growth. We agree that non-hospice spending is a multifactorial problem with various contributing causes. As referenced in this year's proposed rule (91 FR 17338), audits completed by the OIG found that Medicare improperly paid for services provided to hospice enrollees, specifically, one audit noted that in situations where Medicare improperly paid for services, neither the beneficiary nor the non-hospice provider had access to the addendum; the OIG identified that having an addendum available would have assisted non-hospice providers in appropriately billing Medicare for hospice beneficiary services.<sup>13</sup>

However, we disagree with the characterization that the proposed mandatory election statement addendum is unnecessary or ineffective. The data documented in the proposed rule, along with comments received in support of requiring the addendum to be provided at the time of hospice election, raises serious and specific concerns about whether hospices are fulfilling their existing statutory and regulatory obligations; obligations that exist independent of the proposed addendum requirement. Specifically, the data shared in this year's proposed rule (91 FR 17338) identify that non-hospice spending is heavily concentrated in the same diagnostic categories that define the most common hospice terminal diagnoses. We are particularly concerned by the data showing that items, services, and drugs that are foundational to hospice care, and are not exceptional or unusual, such as, but not limited to, wheelchairs, hospital beds, oxygen supplies, wound care supplies, incontinence supplies, catheters, needles, and common palliative drugs, are being billed outside the hospice benefit for patients whose terminal diagnoses directly and foreseeably give rise to the need for these items. Our concerns are further amplified by anecdotal reports from beneficiary representatives who are inquiring whether there is a limit to basic supplies that are provided by the hospice, such as adult diapers, as hospices are not providing or limiting the amount supplied to beneficiaries. These anecdotal reports, combined with the

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<sup>13</sup> Medicare Improperly Paid Acute-Care Hospitals an Estimated \$190 Million Over 5 Years for Outpatient Services Provided to Hospice Enrollees (A-09-23-03024). November 12, 2024. <https://oig.hhs.gov/documents/audit/10055/A-09-23-03024.pdf>.

support of patient advocacy groups and other commenters who have been requesting increased transparency since before the implementation of the addendum in FY 2020, and the ongoing support and requests for a mandatory requirement underscores the need to empower beneficiaries to make informed decisions about their care during their most vulnerable time in life.

Commenters who support the proposal to make the addendum mandatory report that beneficiaries are not fully aware of the services available to them under the hospice benefit and that some hospices may not be fulfilling their coverage obligations.

In response to a comment that reported 55 percent of hospice beneficiaries in FY 2024 had no non-hospice spending and argued that this is a reason to retain the request-only addendum framework, this statistic underscores the importance of ensuring that the 45 percent of beneficiaries who do incur non-hospice spending, and who are most likely to be experiencing coverage gaps, inappropriate cost-shifting, or inadequate care coordination, have timely, written access to the hospice's coverage determinations.

In response to the comments that only 1 in 5 patients request the addendum and that 5 to 7 percent of admissions have completed addenda, we note that the exceptionally low reported request rate raise concerns about whether hospices are fulfilling their required obligations and properly informing beneficiaries of their rights and coverage determinations. In addition, comments from patient advocacy groups, non-hospice provider groups, and other commenters supporting the availability of the addendum for all hospice beneficiaries and anecdotal reports of non-hospice providers reporting inability to obtain the addendum when requested raise the same concerns. We remind readers that section 1812(d)(1) of the Act requires beneficiaries to affirmatively elect hospice care, and that the hospice election involves a significant waiver of Medicare rights, as beneficiaries waive all rights to Medicare payment for services related to the treatment of their terminal illness and related conditions. Hospice beneficiaries are among the most vulnerable Medicare population, and they, along with their entire care team, need to have access to complete information about what services will and will not be covered by the hospice

at the time of election to ensure that the beneficiary is truly informed when providing consent to elect the hospice benefit, which waives significant Medicare rights.

Covered entities must furnish appropriate auxiliary aids and services when necessary to ensure effective communication with individuals with disabilities. They also must take reasonable steps to provide meaningful access to individuals who are limited English proficient including the provision of interpreter and translation services free of charge when needed.

Additionally, as described in detail in this year's proposed rule (91 FR 17338), we identified that non-hospice spending growth increased 160 percent from FY 2020 to FY 2024, despite the addendum's availability upon request. The growth in non-hospice spending also means that beneficiaries' out of pocket costs have also significantly increased. Therefore, CMS believes that beneficiaries should not have to expend additional effort to request coverage information that §§ 418.52(c)(7)-(8) set out as a patient right, and that CMS believes should be proactively provided to every beneficiary, in language the individual (or representative) can understand, at the time of hospice election.

We are particularly concerned by reports that non-hospice providers have at times been unable to obtain the addendum when requested, a circumstance that raises serious questions about how difficult it must be for beneficiaries, who are terminally ill and often cognitively or physically impaired, to obtain the same information. If non-hospice providers, who are healthcare professionals with knowledge of the system, cannot reliably obtain the addendum upon request, it is unreasonable to expect that beneficiaries and their families, navigating one of the most difficult periods of their lives, can do so.

Additionally, we remind readers that under § 418.24(b)(3), hospices are required to inform beneficiaries that virtually all care needed by the beneficiary who has elected hospice will be provided by the hospice, and that services unrelated to the terminal illness and related conditions are exceptional and unusual. Further, under § 418.24(b)(6), hospices are already required to notify beneficiaries of their right to receive the addendum if there are conditions,

items, services, or drugs the hospice has determined to be unrelated. A written document outlining the hospices' determination of what is covered and what is not covered under the hospice election would assist beneficiaries in adequately advocating for themselves, help them understand coverage determinations, and facilitate coordination with non-hospice providers.

In response to commenters that raised concerns regarding the proposed mandatory addendum's impact on claims processing, specifically claims denials, we note that the proposed mandatory addendum serves a distinct and complementary function to the claims processing workflow. Without a universally documented and delivered addendum, there is no reliable record against which a MAC could evaluate whether a non-hospice claim is consistent with the hospice's documented relatedness determinations. The mandatory addendum and the claims process are not competing alternatives, but rather sequential steps in a more complete program integrity process.

Finally, we acknowledge the commenter's recommendation that we develop national examples for items, services, and drugs. Due to each beneficiary having a unique, patient-specific situation, we are unable to enumerate all situations where specific items, services, or drugs would be applicable or provide standardized mechanisms to confirm relatedness. However, we continue to remind readers that it would be unusual and exceptional to see services provided outside of hospice for those individuals who are approaching the end of life, and we have reiterated since 1983 that virtually all care needed by the terminally ill beneficiary would be provided by the hospice (48 FR 56010, 84 FR 38509, 85 FR 47091, 86 FR 19713, 88 FR 20032, 89 FR 64202). CMS will continue to consider commenters' requests and update sub-regulatory guidance as appropriate to assist hospices in making individualized, patient-specific determinations of whether items, services, and drugs are related or unrelated to the terminal illness and related conditions.

*Comment:* Some hospice provider advocacy groups and hospices raised concerns that requiring that the election statement addendum which was described by a hospice as a highly

technical instead of clear and compassionate communication, be provided to every beneficiary at admission risks overwhelming the beneficiary, creating confusion, distress and administrative burden during a vulnerable time. Additionally, several commenters stated that they disagree with requiring beneficiaries to acknowledge and sign the information on the addendum arguing that this requirement is neither appropriate nor effective. A hospice provider group also reported concerns with having to update the addendum, especially as beneficiaries approach the end-of-life and their needs quickly evolve. Similarly, one hospice provider group commented that hospice beneficiaries want to focus on end of life needs rather than distinguishing between hospice and non-hospice coverage. A patient advocacy group and a non-hospice provider group submitted comments that were contrary to those of hospice providers and hospice advocacy groups. The patient advocacy group stated that the addendum is needed for beneficiaries who are facing financial hardship and need to be aware of situations involving a risk of cost-shifting to the patient or family, as well as alternative sources of coverage, appeal rights, and awareness that an addendum can be requested, and requested that the addendum be written in plain language with clear explanations that beneficiaries and their families, especially those with limited health literacy or language barriers, can understand. The non-hospice provider group reported that the mandatory addendum would save health care providers time, increase beneficiary and family awareness of coverage determinations, and reduce overall Medicare spending. There was also mixed support from various commenters who identified benefits of the addendum; however, these comments also include overarching themes of administrative burden concerns and challenges with beneficiaries understanding the addendum as the addendum is often described as not being written in plain language.

*Response:* We acknowledge the overwhelming opposing views from hospice provider groups, the support from hospice beneficiary advocates and non-hospice providers, as well as the mixed support from various commenters. The significant number of comments from hospice providers and hospice advocacy groups raising concerns about beneficiary burden and

administrative complexity is particularly notable given that the addendum has been a condition of payment since FY 2020 and hospices have been required to provide it upon request since that time; if hospices had been routinely fulfilling this existing obligation, the administrative processes and workflows necessary to support a mandatory requirement should already be largely in place. Combined with reports from non-hospice providers and patient advocacy groups describing difficulty or inability to obtain the addendum when requested, this raises serious concerns that some hospices may be avoiding providing the addendum altogether. We are deeply concerned that the overwhelming volume of comments citing administrative burden, combined with hospice providers potentially making unilateral determinations that beneficiaries do not want the addendum or may feel overwhelmed by coverage information, may reflect a pattern of non-compliance with existing disclosure obligations rather than a genuine patient-centered concern. We note that the decision of whether a beneficiary wants or needs coverage information is not the hospice's determination to make, it is the beneficiary's right to receive.

We are further concerned by reports from all parties, including hospice providers, non-hospice providers, and patient advocates, describing the addendum as complex and not written in plain language. We remind all hospices that the addendum is explicitly required under § 418.24(c)(6) to include "a written clinical explanation, in language the individual (or representative) can understand, as to why the identified conditions, items, services, and drugs are considered unrelated to the terminal illness and related conditions." The requirement that the addendum be written in language that the beneficiary can understand is not a suggestion, it is a regulatory requirement. If hospices are producing addenda that are not written in language the individual (or representative) can understand, as required in the regulations at § 418.24(c)(6), this represents a failure of compliance with the existing regulatory standard, not a reason to oppose the mandatory requirement.

*Comment:* Several commenters requested a standardized plain-language addendum template and implementation guidance. In addition, several commenters specifically requested

that CMS remove the signature requirement, stating that obtaining signatures is logistically difficult, time-consuming, and particularly challenging when beneficiaries are cognitively impaired, in rapid decline, or when representatives are unreachable or unavailable to sign. Some commenters requested specific guidance and clarification on how to document the addendum when all items are covered. A few commenters argued that generating a blank form would be cumbersome, clinically meaningless, and an unnecessary administrative burden. One commenter reported that 55 percent of hospice beneficiaries in FY 2024 had no non-hospice spending, arguing that this statistic supports limiting the mandatory addendum requirement to only those beneficiaries with identified non-covered items, services, or drugs. Additionally, a commenter reported that electronic health records have the capability to pre-populate common unrelated items based on terminal diagnosis and prompt the IDG to review and confirm but would still require clinical judgment.

*Response:* We acknowledge commenters' requests for a standardized, plain-language addendum template and appreciate the feedback regarding the operational complexity of developing and implementing the addendum. However, as stated in the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484), CMS believes that hospices are best positioned to develop an addendum, with the required content elements, that meets their patients' needs and aligns with their current admission processes and other business procedures. We remind readers that hospices were expected to develop their own addenda in a format that suits them to best meet the requirements and patient needs while minimizing operational burden by the (delayed) implementation date of FY 2021. Additionally, the burden estimate completed in the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484) already accounted for the assumption that hospices would provide the addendum to all beneficiaries. As such, hospices have been on notice since FY 2020 that their processes and systems should be capable of producing an addendum for every beneficiary, in writing, if requested. The transition to a mandatory framework in the FY 2027 Hospice Wage Index and Rate Update proposed rule

formalizes what the FY 2020 burden estimate already assumed and hospices have had since FY 2020 to develop the necessary workflows, documentation processes, and, where applicable, electronic health record configurations to support this requirement. Additionally, we acknowledge the electronic health records capabilities and appreciate that the commenter identified that clinical judgement is required to make final determinations; however, the commenter identifying that there are common unrelated items that are populated raise concerns as to why hospices are not covering items when they are commonly noted which supports that the commonly reported items are likely contributing factors to the beneficiaries' terminal prognosis that requires hospice care. We remind readers that the terminal diagnosis should not be the only diagnosis considered as the hospice benefit should cover all items, services, and drugs related to not only the terminal illness but also any related conditions; items, services, and drugs not covered under the hospice benefit should be exceptional, rare, and unusual as articulated since the hospice benefit was implemented in 1983 (48 FR 56008, 56010, December 16, 1983).

The signature concerns raised by commenters are already addressed in our existing regulations; hospices are not required to obtain a signature in every circumstance, and the inability to obtain a signature does not result in a claim denial provided the hospice documents the reason it was unable to obtain the signature. The signature is an acknowledgment of receipt, not an agreement with the hospice's determinations.

We appreciate commenters' concerns surrounding documentation of addenda for beneficiaries with no non-covered items and disagree with the characterization that an addendum reflecting no non-covered items is clinically meaningless or an unnecessary administrative burden. Since the addendum is required to include a list of the individual's conditions present on hospice admission (or upon plan of care update) and the associated items, services, and drugs not covered by the hospice, if there are no such items, the list would reflect that determination. An addendum documenting that all items, services, and drugs have been determined to be related to the terminal illness and related conditions is not a blank form; it is a meaningful clinical record

that confirms the hospice conducted the required individualized assessment and determined that all care is covered under the hospice benefit. This documentation serves an important program integrity function, as it creates an auditable record of the hospice's coverage determination that beneficiaries and their representatives, MACs, and other oversight entities can reference and utilize when advocating for beneficiary rights or evaluating the appropriateness of non-hospice claims submitted for a specific hospice beneficiary. As stated in the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484), we continue to believe that once a beneficiary elects the hospice benefit, most items, services, and drugs would be for the palliation and management of the terminal illness and related conditions and that there would be few things that would be unrelated; for this reason, we believe most addenda, not just 55 percent as reported by one commenter, should reflect the determination that there are no items, services, or drugs that are not covered by the hospice. This further supports that the burden of completing an addendum for beneficiaries with no non-covered items would be minimal, as the determination is straightforward and the documentation brief. The argument that such an addendum is cumbersome or clinically meaningless is inconsistent with the hospice's existing obligation to conduct and document individualized coverage determinations for every beneficiary as part of the comprehensive assessment and care planning process CoPs at §§ 418.54 and 418.56; the addendum simply formalizes and communicates that determination in writing, in language the individual (or representative) can understand, to the beneficiary.

We have already stated that the format of the addendum is not standardized (84 FR 38484); the format should be presented in a way that best suits the hospice, while meeting the requirements and patient needs, and minimizing operational burden. Similarly, there is no standardized method to document that all services are covered by the hospice; if there are no non-covered items, the addendum would reflect that determination in plain language that the beneficiary or representative understands. The proposed mandatory addendum would serve a very meaningful purpose, strengthening program integrity efforts and improving consistency,

transparency, accessibility, and clarity for not only hospice providers, but also non-hospice providers, MACs, beneficiaries, and their families. This consistency could also improve the workflow and decrease confusion for hospices, non-hospice providers, and MACs, as the addendum would be always available in the beneficiary's medical record.

Additionally, in response to comments in previous rules requesting a template for the addendum, we developed a model hospice election statement addendum to assist hospices in developing their own. As stated in this year's proposed rule (91 FR 17338), there is no required standardized form for the addendum; however, if desired, hospices can use the model hospice election statement addendum that is available on the hospice center webpage<sup>14</sup>. Additionally, while a written addendum is required to be provided to the beneficiary, a supplemental copy via an electronic delivery option can also be made available to the beneficiary if the hospice agency chooses to include this option in their workflow. We want to ensure that every beneficiary has access to their coverage determinations and that access to these determinations is not confusing or dependent on having and managing electronic devices, unique applications, or other resources, such as a printer, when beneficiaries are focusing on their end-of-life needs. Providing beneficiaries and their families with an option for a supplemental electronic copy could be beneficial; therefore, we appreciate and agree with commenters' suggestions regarding ways to provide beneficiaries with additional resources during their most vulnerable time in life.

Specifically, regarding signatures on the addendum, electronic or written signatures are acceptable; however, a hospice cannot require an electronic signature in lieu of a written signature if the beneficiary or representative does not have access to the necessary resources or the understanding required to complete the electronic method of acknowledgement.

We will also consider comments provided when updating educational materials including sub-regulatory guidance.

*Comment:* Many commenters requested that CMS delay implementation for up to 18

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<sup>14</sup> <https://www.cms.gov/medicare/enrollment-renewal/providers-suppliers/hospice-center>.

months. Additionally, a few commenters requested that the proposed mandatory addendum timeframe be extended; with requests ranging from beyond 5 days and up to 15 days.

Response: We acknowledge the widespread requests for a delayed implementation timeline and an extended requirement timeline to provide beneficiaries with the proposed mandatory addendum. However, hospices have had since FY 2020, when the addendum was initially finalized, to implement the addendum requirements with the assumption that every beneficiary could request an addendum. We remind readers we provided a delayed implementation date of FY 2021 in response to commenters' requests in the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484).

Similarly, in the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484), we extended the timeframe for furnishing the addendum from 48 hours to 5 days to align with the comprehensive assessment requirements, in response to commenters' requests for additional time and to align the addendum timeframe with existing hospice admission regulations. Moreover, if a beneficiary dies prior to the addendum being furnished, within the required timeframe, the hospice is not required to complete the addendum; this circumstance accounts for about 19 percent of hospice beneficiaries who may not be provided with necessary information regarding their care and services when they need it most. If the addendum timeframe was potentially delayed until day 14 or 15, the proportion of beneficiaries who may not be provided with necessary information regarding their care and services would drastically increase to almost 34 percent and 35 percent, respectively.

For these reasons, we do not agree with extending the implementation timeline as this would negate what the majority of commenters requested in FY 2020, specifically, to align the addendum implementation timeline with the comprehensive assessment requirement timeline; changing the current requirements' implementation timeline could be more detrimental to hospice beneficiaries as they could easily be confused by their inability to receive an addendum in the timeframe that current hospice beneficiaries have already been educated on; and each

additional day that the addendum is delayed significantly increases the proportion of beneficiaries and their families that may not have access to the transparency, patient protections, and information regarding the risks of inappropriate cost-sharing related to items, services, and drugs when they need it most. Every beneficiary should have timely, written access to the coverage information they are already entitled to under existing regulations and the appropriate resources to advocate for themselves and question inappropriate coverage determinations, and assurance that hospices are fulfilling their existing obligation to provide virtually all care needed by the beneficiary who has elected hospice and services unrelated to the terminal illness and related conditions are exceptional, rare, and unusual (§ 418.24(b)(3)).

*Final Decision:* After considering the public comments received, we are finalizing as proposed our proposal to make the election statement addendum mandatory for all hospice elections, not just upon request.

#### *D. Clarifying Regulation Text Changes*

##### **1. Discharge from Hospice Care**

In the FY 2025 Hospice Wage Index and Rate Update final rule (89 FR 64202), we finalized conforming text changes to align the medical director CoP and the hospice payment requirements. Specifically, we amended § 418.102(b) by adding the physician member of the hospice interdisciplinary group (IDG), as defined in § 418.56(a)(1)(i), as an individual who may provide the initial certification of terminal illness. We also amended the medical director CoP in § 418.102(c) to include the medical director, or physician designee, as defined at § 418.3, if the medical director is not available, or physician member of the IDG among the specified physicians who may review clinical information as part of the recertification of the terminal illness. Further, to align payment regulations regarding the certification of the terminal illness and admission to hospice care under §§ 418.22 and 418.25 with the CoPs at § 418.102, we added “physician designee (as defined in § 418.3)” to clarify that when the medical director is not available, a physician designated by the hospice, who is assuming the same responsibilities and

obligations as the medical director, may certify terminal illness and determine admission to hospice care. We clarified that this does not connote a change in policy; rather, we stated that we believe aligning the language at §§ 418.22(c) and 418.25 with the CoPs at § 418.102 allows for greater clarity and consistency between key components of hospice regulations and policies (89 FR 64231).

In response to comments received on the proposed amendments to §§ 418.22 and 418.25, in the FY 2025 Hospice Wage Index and Rate Update proposed rule (89 FR 64202) to add physician designee to the hospice certification and admission payment policies, we again agreed with commenters who stated that our regulations at § 418.25 identifying which physicians can determine admission to hospice care should be consistent with those at § 418.22 identifying who can provide the certification of terminal illness. Accordingly, in the FY 2026 Hospice Wage Index and Rate Update final rule (90 FR 37416), to align with the updated payment and CoP regulations at §§ 418.22(c)(1)(i) and 418.102(b), respectively, we finalized the addition of “the physician member of the hospice interdisciplinary group” at § 418.25(a) and (b) to indicate that, in addition to the medical director or physician designee, the physician member of the hospice IDG may also determine admission to hospice care. We stated that we believe aligning the language at § 418.25(a) and (b) with the language at §§ 418.102(b) and 418.22(c)(1)(i) would allow for greater consistency between key components of hospice regulations and policies.

We noted that § 418.26(b) requires that prior to discharging a patient for any reason listed in § 418.26, the hospice must obtain a written physician's discharge order from the hospice medical director. To align with the updated payment regulations at §§ 418.22, 418.102(b), and 418.25(a) and (b) and to create greater consistency between key components of hospice regulations and policies, we proposed conforming additions to § 418.26(b) to state the hospice may also obtain the written physician's discharge order from the physician designee, as defined at § 418.3, or physician member of IDG.

We received public comments on our proposal to make conforming additions to

§ 418.26(b) to state the hospice may also obtain the written physician's discharge order from the physician designee, as defined at § 418.3, or physician member of IDG. A summary of the comments and our responses to those comments are as follows:

*Comment:* All commenters supported this proposal, stating that they would welcome the clarification that hospices may obtain written physician discharge orders from a physician designee (as defined at § 418.3) or a physician member of the IDG. Commenters broadly noted that this change would reflect current real-world practice, align with other recent regulatory language changes, and would allow hospices to complete discharge orders on a timelier basis. One commenter applauded CMS' willingness to broaden authorizations and encouraged CMS to extend similar flexibilities to qualified non-physician health professionals such as physician assistants (PAs) where possible.

*Response:* We thank commenters for their support.

*Final Decision:* We are finalizing the proposed additions to § 418.26(b) as proposed.

## 2. Face-to-Face Encounter

Section 6209(f)(1)(A) of the CAA, 2026 amended section 1814(a)(7)(D)(i)(II) of the Act to extend the use of telehealth by a hospice physician or hospice nurse practitioner to conduct a face-to-face encounter for the sole purpose of recertifying the patient's eligibility for hospice, through December 31, 2027. Additionally, section 6209(f)(1)(B) of the CAA, 2026 amended section 1814(a)(7)(D)(i)(II) of the Act to include a prohibition on the use of telehealth to conduct the face-to-face encounter in the case of such an encounter with an individual occurring on or after January 31, 2026, if such individual is located in an area that is subject to a moratorium on the enrollment of hospice programs under this title pursuant to section 1866(j)(7) of the Act, if such individual is receiving hospice care from a provider that is subject to enhanced oversight under this title pursuant to section 1866(j)(3) of the Act, or if such encounter is performed by a hospice physician or nurse practitioner who is not enrolled under section 1866(j) of the Act and is not an opt- out physician or practitioner. Section 6209(f)(2) of the CAA, 2026 amended

section 1814(a)(7)(D)(i)(II) of the Act to require (for face-to-face encounters conducted via telehealth occurring on or after January 1, 2027) that hospice claims include one or more modifiers or codes (as specified by the Secretary) to indicate that such encounter was conducted via telehealth.

In accordance with section 6209(f) of the CAA, 2026, we proposed amending § 418.22(a)(4)(ii) to align with the provisions described previously. The regulatory language would require the hospice to collect data reflecting face-to-face encounters furnished using telecommunications technology, which includes, at a minimum, the use of audio and video equipment permitting two-way, real-time interactive communication between the patient and the distant site hospice physician or hospice nurse practitioner, and the hospice would do so by reporting a G-code identifying that a face-to-face encounter was furnished using such technology, that is, telehealth. We solicited comments on these amendments and on the use of the new G-code identifying face-to-face encounters furnished via telehealth. The coding requirement will enable CMS to enforce the prohibition on the use of telehealth to conduct the face-to-face encounter when the circumstances described in section 6209(f)(1)(B) of the CAA, 2026 are present because we will be able to identify those face-to-face encounters conducted via telehealth. We will not require that in-person face-to-face encounters for the purposes of recertification to be collected on claims. In accordance with section 6209(h) of the CAA, 2026, we will issue further subregulatory guidance on implementation of this provision, including the exclusion from this permissible use of telehealth, via a Change Request (CR).

*Comment:* The majority of commenters support the proposal to amend § 418.22(a)(4)(ii) in alignment with the CAA 2026, agreeing that the requirement to report a G-code identifying telehealth-conducted face-to-face encounters would not be overly burdensome and is feasible for most hospice providers. No commenters directly opposed the proposal.

*Response:* We thank commenters for their support.

*Comment:* Some commenters raised significant clarification concerns, including

ambiguity around the scope of the telehealth prohibition (nationwide vs. regional/State/county moratorium), the inability to search nurse practitioner enrollment status in the Order and Referring dataset, and the lack of face-to-face practitioner identification on hospice claims, recommending CMS pause enforcement until an identifying G-code is established and all interested parties have sufficient implementation notice. Key suggestions include making telehealth flexibilities for face-to-face encounters permanent (particularly for rural and underserved providers), extending the flexibility to physician assistants, and ensuring MACs and audit contractors refrain from issuing claim denials during the interim period before full implementation guidance is issued.

*Response:* The CAA, 2026 only temporarily extends the telehealth flexibilities for face-to-face recertifications and therefore, we are statutorily prohibited from making this provision permanent, nor does it extend recertification to physician assistants at this time. In addition, there is no need to delay enforcement as the G-code along with its reporting guidance and instructions will be issued prior to implementation of this requirement, which does not take effect until January 1, 2027. Further, the use of the G-code is not intended to be used to check provider identification or enrollment status. We note that hospices that are already enrolled in Medicare can continue to utilize telehealth to conduct recertification face-to-face encounters and are not impacted by the home health and hospice nationwide moratorium. We issued clarification regarding the home health and hospice nationwide moratorium and its impact on the hospice face-to-face telehealth flexibility, which can be found at

<https://www.cms.gov/files/document/hh-hospice-moratorium-faqs.pdf>.

*Final Decision:* After considering the public comments received, we are finalizing as proposed our proposal to amend § 418.22(a)(4)(ii).

#### *E. Requests for Information on Medicare Services and Payment Structure*

1. Request for Information on Ways to Enhance the Provision of Palliative Care Outside of Hospice Care: Current Coverage, Billing Practices, and Opportunities for Improvement

Palliative care is often thought of in concert with hospice care; however, it is not mutually exclusive to the end of life. Medicare defines palliative care as patient and family-centered care that optimizes quality of life by anticipating, preventing, and treating suffering. Palliative care throughout the continuum of illness involves addressing physical, intellectual, emotional, social, and spiritual needs and to facilitate patient autonomy, access to information, and choice (§ 418.3). The Medicare hospice benefit provides comprehensive interdisciplinary palliative care once a patient is certified as having a life expectancy of 6 months or fewer; however, many palliative care patients are not yet ready or eligible for hospice. Therefore, as palliative care is a method of care delivery that is provided throughout the continuum of illness, it can be furnished under various Medicare benefits prior to a beneficiary's decision to elect hospice care. In particular, community-based palliative care plays an essential role in improving the quality of life for individuals living with serious illness. The home is an ideal environment for individuals to receive palliative care services, as remaining in the home during a serious illness may help alleviate psychological and mental distress and allow for more intimate caregiving to be provided by family members. Although Medicare does not currently offer a dedicated palliative care benefit, because palliative services are offered across existing Medicare programs, we solicited public feedback regarding ways in which we can optimize current coverage and billing practices under various outpatient or home-based benefits to result in more cohesive, integrated, person-centered care as beneficiaries approach hospice care. We stated that understanding how Medicare providers currently support palliative care, how providers bill for these services, and where gaps persist is critical to strengthening community-based palliative care within today's regulatory and payment structure.

Although Medicare covers many services that are core to palliative care, coverage can be indirect. Most community palliative care services fall under Medicare Part B, which reimburses for reasonable and medically necessary outpatient care. Medicare Part B also supports access to mental and behavioral health services, including counseling provided by clinical social workers,

and rehabilitation therapies such as physical, occupational, and speech therapy aimed at reducing symptom burden and maintaining function. Telehealth, expanded in recent years, further enhances access to palliative expertise for homebound or mobility-limited patients. Medicare Part B also covers certain medical supplies and equipment needed for palliative care, such as oxygen and wheelchairs.

While Medicare Part A primarily covers inpatient services, it does provide limited outpatient-related support. Care delivered in hospital outpatient departments may be covered, as well as home health services for patients who are homebound and require skilled care. These benefits, though not palliative-specific, can provide essential nursing, social work, aide, and therapy support that aligns with palliative goals.

Medicare Part D further contributes to outpatient palliative care by covering prescription medications for symptom management, such as analgesics, antiemetics, and anxiolytics.

## **UNDERSTANDING BILLING PRACTICES AND DELIVERING PALLIATIVE CARE**

Because Medicare does not recognize palliative care as a distinct billable service, providers must rely on a variety of codes and benefit categories. Physicians and advanced practice providers typically bill evaluation and management (E/M) visits for outpatient or home-based palliative encounters. Clinicians may provide symptom management, chronic disease support, advance care planning (ACP), and behavioral health care through standard E/M visits or specialized billing codes. For example, ACP services are reimbursable through CPT codes 99497 and 99498, allowing providers to conduct structured discussions about patient values, goals, and treatment preferences. Similarly, chronic care management (CCM), complex CCM, principal care management (PCM), and transitional care management (TCM) codes support ongoing coordination of care, which is central to high-quality palliative care for complex conditions. Code Z51.5 *Encounter for Palliative Care* can be used; however, it does not specify what services this code encompasses. These codes also may not reflect the time-intensive nature of holistic, interdisciplinary palliative care. We requested comments regarding ways in which

community providers bill for palliative services, which CPT or HCPCS codes they rely on, and what barriers they face in using ACP, care management, or telehealth codes. Specifically:

- Do the E/M codes, care management codes, and ACP codes represent the majority of the billing codes providers use to capture community palliative care services?
- What services are typically provided when Z51.5 is billed?
- Are there challenges in meeting documentation requirements or integrating non-billable team members, such as social workers, chaplains, or nurses who are crucial to palliative care delivery?
- Is there uncertainty about compliance requirements or concern that billing for palliative care will result in claims denials?
- What non-medical services, such as caregiver training or spiritual care, would most benefit patients if reimbursed? And what enhancements to existing benefits (not requiring legislation) could strengthen palliative care? These might include expanding social worker billing privileges or creating standardized codes or definitions for serious-illness care.

## **UNDERSTANDING PROGRAM AND BENEFICIARY NEEDS**

Gathering information from providers and beneficiaries is essential to identify how outpatient or community palliative care is currently provided under Medicare and where gaps remain. In addition to providing feedback on billing practices, we requested interested parties offer insight into broader systemic challenges, staffing limitations, claim denials, and palliative services they provide but cannot bill for under Medicare's current structure. Specifically:

- What aspects of palliative care are financially unsustainable for providers?
- What documentation requirements do providers typically use, or suggest using, to identify the provision of palliative care?
- Do providers commonly refer patients for home health services when a patient needs palliative care concurrently with curative or life-sustaining care?
- What services do providers typically offer patients who are not eligible or ready to

elect hospice care but require palliative services?

## **THE PATH FORWARD**

Medicare's current structure provides several pathways for delivering community palliative care; however, these programs may seem siloed, making it difficult for patients to understand how palliative services are provided outside of the hospice benefit. We stated that interested party feedback is essential for guiding CMS toward policies that expand access to high-quality community palliative care without requiring legislative reform or the creation of an entirely new benefit. By gathering detailed input from those who deliver and manage palliative care services, we can better understand how to strengthen community palliative care under existing benefits. In addition to the questions previously listed, we solicited input on any additional targeted enhancements within current benefits, such as expanding billable services, simplifying documentation, standardizing definitions, or increasing beneficiary education that could meaningfully expand access to palliative care services. As the population ages and the prevalence of serious illness grows, refining how Medicare supports community palliative care, prior to hospice care, is both a practical necessity and an opportunity to enhance the well-being of millions of beneficiaries.

We received public comments on our request for information on ways to enhance the provision of palliative care outside of hospice care. A summary of the comments and our responses to those comments are as follows:

*Comment:* Commenters broadly support CMS' interest in expanding community-based palliative care, citing strong evidence that palliative care reduces avoidable hospitalizations, improves symptom management, and facilitates more timely and appropriate hospice elections. Many commenters stated that existing evaluation and management, care management, and advanced care planning codes do not capture the full interdisciplinary scope of palliative care, particularly services provided by nurses, aides, social workers, chaplains, and community health workers, leaving many programs financially unsustainable. Commenters suggested creating a

new comprehensive palliative care assessment and care planning G-code; establishing palliative care as a defined Medicare benefit with a bundled or capitated payment model; adding billing codes for nursing case management, social work, and community health workers; making telehealth for palliative care permanent; incorporating social risk and financial hardship factors into any future model design; creating a "palliative track" within the Home Health Quality Reporting Program (HHQRP); and developing a formal 'Serious Illness Transition Program' to bridge the gap between serious illness diagnosis and hospice election. Several commenters stated that the home health benefit is utilized for palliative care and appreciated the acknowledgment in the proposed rule. Some commenters supported retaining the existing coding structure, stating that existing codes (mainly the chronic care management, advanced care planning, and evaluation and management codes) are sufficient to capture palliative care services, and adding additional codes would likely introduce unnecessary complexity. Another commenter recommended implementing a modifier that designates services as palliative care and suggested that the modifier should also differentiate between inpatient and home-based services.

*Response:* We appreciate the feedback and will take all suggestions into consideration to the extent possible.

## 2. Request for Information Regarding Construction of a Hospice Specific Wage Index

The hospice wage index is used to adjust payment rates for hospices under the Medicare program to reflect local differences in area wage levels, based on the location where services are furnished, as determined by the Secretary, in accordance with sections 1814(i)(1)(A) and 1814(i)(2)(D) of the Act. As described in the FY 1998 Hospice Wage Index final rule (62 FR 42860), the pre-floor and pre-reclassified hospital wage index is used as the raw wage index for the hospice benefit. These raw wage index values are subject to application of the hospice floor to compute the hospice wage index used to determine payments to hospices. Additionally, our regulations at § 418.306(c) require that each labor market be established using the most current hospital wage data available, including any changes made by the Office of Management and

Budget (OMB) to Metropolitan Statistical Area (MSA) definitions.

However, CMS has received numerous comments regarding the use of the Inpatient Prospective Payment System (IPPS) wage index to adjust for the geographic variation of wages for hospice staff through the annual hospice rulemaking. Specifically, commenters have stated that the IPPS wage index uses data from four FYs prior to the current payment year and that the time lag may underestimate the changes in relative wages for hospice staff. Commenters have also stated that hospitals may have different labor costs and occupational mix than hospices and have requested that, like inpatient hospitals, hospices be able to reclassify their wage index in some instances. Additionally, we have received feedback opposing our proposals to adopt the new revised OMB CBSA delineations and the wage index values assigned to their geographic areas, wage index values assigned to rural areas, and adjusting wage index differences between high wage index and low wage index hospices in adjacent local areas through exceptions.

We have also received recommendations from MedPAC to include all-employer, occupation-level wage data to establish different weights for setting-specific occupational labor mix to capture labor costs faced by all employers of the related occupations. In 2007 and 2022, MedPAC proposed using the BLS for wage data and to construct new wage indexes to more accurately reflect local area differences in labor costs between and within MSAs and statewide rural areas.<sup>15,16</sup> Following the MedPAC analysis, a CMS-commissioned study issued in 2009 concluded that despite some limitations, BLS wage information is more accurate and reliable than the current source of wage information.<sup>17</sup> In a separate commissioned study from the Institute of Medicine (IOM), the committee examined ways to improve the accuracy of data sources and methods used for making the adjustments to payment to reflect geographic variation in labor prices.<sup>18</sup>

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<sup>15</sup> MedPAC, Report to Congress, 2007, p.124-125.

<sup>16</sup> MedPAC, Report to Congress, 2023, p.386.

<sup>17</sup> MaCurdy et al., Revision of Medicare Wage Index.

<sup>18</sup> Committee on Geographic Adjustment Factors in Medicare Payment; Board on Health Care Services; Institute of Medicine; Edmunds M, Sloan FA, editors. Geographic Adjustment in Medicare Payment: Phase I: Improving

In response to these numerous, ongoing comments from interested parties regarding the hospice wage index, we have examined possible alternatives to using the IPPS wage index for geographically adjusting hospice payments. We note that other non-hospital settings have also investigated alternatives to the IPPS wage index, as hospital cost reports may not be representative of the occupations relative to the post-acute care settings. Most recently, in the CY 2025 End Stage Renal Disease (ESRD) PPS final rule (89 FR 89116), we finalized changes to the ESRD PPS wage index using BLS Occupational Employment and Wage Statistics (OEWS) data. Furthermore, in the 2023 Report to Congress, MedPAC recommended using county-level wage data from the BLS with an occupational mix to construct a wage index that is more specific to the payment setting.<sup>19</sup>

CMS hosted a Technical Expert Panel (TEP) on September 10, 2025, inviting 14 participants representing various interested parties including industry associations, academia, and hospices, to seek feedback on a proposed alternative to the current hospice wage index. We also provided a technical report for the TEP panelists that gave additional details regarding the potential methodology that could be used to construct a new hospice specific wage index and preliminary results for how specific hospices would be impacted. The TEP summary report, which summarizes the discussion and recommendations of the TEP, as well as the TEP technical report, which provides a detailed examination of the discussed alternative approaches, may be found at <https://www.cms.gov/medicare/payment/prospective-payment-systems/hospice/hospice-educational-resources>. In the proposed rule, we sought feedback on how the BLS OEWS data, and other public data can be used to construct a hospice specific wage index.<sup>20</sup> CMS requests input to understand the advantages and limitations of the suggested approach in using BLS data and cost reports to support the construction of a hospice specific wage index. In addition, as

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Accuracy, Second Edition. Washington (DC): National Academies Press (US); 2011 Jun 1. Available at <https://www.ncbi.nlm.nih.gov/books/NBK190070/> doi: 10.17226/13138.

<sup>19</sup> MedPAC, Report to Congress, 2023, p.386.

<sup>20</sup> <https://www.bls.gov/oes/>

discussed elsewhere in the **Federal Register**, we note that we are also considering the potential use of alternative data sources in other payment systems including the Inpatient Rehabilitation Facilities (IRF) PPS and Skilled Nursing Facilities (SNF) PPS. We sought feedback on the unique considerations applicable to hospices that should inform how CMS considers the potential use of alternative data sources. We sought comment on the following suggested components of how a new hospice specific wage index would be constructed:

*(1) Source data for determining area wages:* When considering a source for wage data, we believe it is important that the data used is public to promote transparency, such that relevant interested parties would have access to the data and can conduct their own analyses. The IPPS hospital wage index is updated annually, based on a survey of wages and wage-related costs of short-term, acute care hospitals, as required by section 1886(d)(3)(E) of the Act. The final FY 2026 hospice wage index is based on the FY 2026 hospital pre-floor, pre-reclassified wage index for hospital cost reporting periods beginning on or after October 1, 2021 and before October 1, 2022 (using FY 2022 cost report data).

The BLS OEWS data provides MSA-level wage data for health professionals, including clinical and administrative office staff, that is updated annually using a pooled sample of six semi-annual surveys.<sup>21</sup> BLS OEWS data includes information on the wages that employers paid to their employees. It does not include self-employed contract labor wages or benefits paid to employees.

The hospice specific wage index would also include the use of freestanding hospice cost reports, claims, and Census Bureau population data. We would only be using freestanding hospice cost reports to ensure cost accuracy, as facility-based reports may share costs with the larger facility. Claims data is used to retrieve the total minutes of care delivered by the seven different disciplines of care (physical therapy, occupational therapy, speech language pathology, skilled nursing, medical social service, and home health aide) that are currently billed as visits on

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<sup>21</sup> [https://www.bls.gov/oes/current/oes\\_tec.htm](https://www.bls.gov/oes/current/oes_tec.htm).

the claims form. Census Bureau population data is used to calculate weighted averages when aggregating wage data.

(2) *Occupational mix weights:* In the IOM study, the committee recommended using a fixed national set of weights based on the hours of each occupation employed nationwide. When considering the construction of a hospice specific wage index, we need to better understand how hospices currently employ staff and determine what would be appropriate for using as fixed national weights. We want to gather feedback on relevant occupational categories to include in this calculation, which may include billable occupations, such as aides, registered nurses, licensed practical nurses, nurse practitioners, nurse assistants, medical social workers, physicians, occupational therapists, physical therapists, and speech pathologists. Since the full-time equivalent hours for the occupations are not reported in hospice cost reports, we would need to estimate using the most complete claims data available.

The occupational mix determines how much weight each occupation's wage receives in the overall calculation of the wage level for each geographic area and the national level. Our suggested approach uses expenses reported in hospice cost reports and minutes reported in hospice claims data for 10 occupational categories (hospice aide, registered nurses, nursing administration, physician services, licensed practical nurse, licensed vocational nurse, medical social services, nurse practitioner, physical therapy, occupational therapy, and speech language pathology) shown in Table 11. Three occupations are available on cost reports but not claims (Nursing Administration, Physician Services, Nurse Practitioner). Those three occupations accounted for 22.05 percent of costs on the cost report and their share of the occupational mix was set to this percentage. The remaining 77.95 percent of the occupational mix was allocated among the other seven occupations based on their respective shares of minutes from claims data. We sought input on this suggested approach, as well as any other potential methodologies.

**TABLE 11: National Estimated Occupational Mix Using Hospice Cost Reports and Claims**

| Occupation                | Share of Costs from Cost Reports | Share of Minutes from Claims | National Estimated Occupational Mix |
|---------------------------|----------------------------------|------------------------------|-------------------------------------|
| Hospice Aide              | 16.52%                           | 48.89%                       | 38.11%                              |
| Registered Nurses         | 45.89%                           | 36.51%                       | 28.46%                              |
| Nursing Administration    | 10.98%                           | N/A                          | 10.98%                              |
| Physician Services        | 8.86%                            | N/A                          | 8.86%                               |
| LPN/LVN                   | 7.39%                            | 8.32%                        | 6.49%                               |
| Medical Social Services   | 7.65%                            | 6.21%                        | 4.84%                               |
| Nurse Practitioner        | 2.21%                            | N/A                          | 2.21%                               |
| Physical Therapy          | 0.39%                            | 0.06%                        | 0.04%                               |
| Occupational Therapy      | 0.09%                            | 0.01%                        | 0.01%                               |
| Speech/Language Pathology | 0.02%                            | 0.01%                        | 0.01%                               |

(3) *Hospice Specific Wage Index Construction*: Similar to as described in the CY 2025 ESRD PPS final rule (89 FR 89104), we could construct a wage index for each CBSA by calculating an hourly wage for each CBSA (reflecting a weighted average of the occupational mix) and dividing by the aggregate hourly wage (reflecting a weighted average of the occupational mix). The specific computational steps used to calculate the new ESRD PPS wage index were provided in the supplementary document Addendum C of the CY 2025 ESRD PPS proposed rule.<sup>22</sup> In the following sections we present a potential methodology for constructing a potential hospice specific wage index:

**Step 1: Estimate the Hospice National Average Occupational Mix**

We would use the combination of the share of costs from cost reports and share of minutes from claims to develop a hospice national occupational mix (as shown in Table 11).

**Step 2: Calculate Occupation-Specific, CBSA-Level Wage Estimates**

To determine how hourly wages in an area compare with national wage levels for specific occupations, we would calculate a CBSA-level wage estimate for each occupation included in the hospice labor mix. The hourly wages provided in areas available in the BLS data do not exactly align with the CBSAs and State-wide rural areas for which wage index values are

<sup>22</sup> <https://www.cms.gov/files/document/addendum-c-cms-1805-p-esrd-pps-proposed-wage-index-construction-methodology.pdf>.

calculated, therefore we would first map the BLS data to counties. We then impute missing wage estimates at the county-level. Wages for an area could be missing due to small sample size or data quality issues. Finally, we would aggregate county-level hourly wage estimates to the CBSA level using a county population-weighted average of the county-level wage estimates.

#### Step 3: Calculate Cross-Occupation, CBSA-Level Wage Estimates

For each CBSA, we calculate an average wage by multiplying the occupation-specific, CBSA-level wages by the hospice national occupational mix percentage (that is, registered nurse hourly wage times the 28.46 percent in Table 11) and then summing the wages for all occupations in Table 11. This is the numerator for the CBSA's hospice specific wage index value before adjustments.

#### Step 4: Calculate the Cross-Occupation, National Wage Estimate

We would calculate the cross-occupation, national wage estimate, which is the denominator of the hospice specific wage index value before adjustments. We calculate a national weighted average of each occupation-specific wage estimate by weighting the occupation-specific wage estimate in each CBSA by the population in a CBSA. We would then weight the national averages by the share in the national occupational mix to obtain a cross-occupation, national wage estimate.

#### Step 5: Calculating Initial Hospice Wage Index Values

The initial hospice wage index value for each CBSA would be calculated by dividing the cross-occupation, CBSA-level wage estimate from Step 3 by the cross-occupation, national wage estimate from Step 4.

#### Step 6: Adjustments to the Initial Wage Index Values

We would recalibrate to ensure center of distribution equals the center of the legacy wage index. We would then apply the hospice floor and 5 percent cap on decreases to calculate the final hospice wage index.

We sought feedback on any steps that may need to be modified to be applicable to the

data available for hospices and related occupations.

*(4) Labor market areas:* The final FY 2026 hospice wage index does not consider any geographic reclassification of hospitals, including those in accordance with section 1886(d)(8)(B) or 1886(d)(10) of the Act. The final FY 2026 hospice wage index includes a 5 percent cap on wage index decreases. The appropriate wage index value would be applied to the labor portion of the hospice payment rate based on the geographic area in which the beneficiary resides when receiving RHC or CHC. The appropriate wage index value is applied to the labor portion of the payment rate based on the geographic location of the facility for beneficiaries receiving GIP or IRC. MedPAC recommended applying the wage index to a blend of MSA/statewide rural and counties as geographic delineation to set wage index values and smooth wage index differences greater than 10 percent between adjacent areas.<sup>23</sup> Currently, county information is not available to examine geographic variation of hospice labor costs.

For the purpose of constructing a hospice specific wage index, we sought feedback on the level of geographic delineation of labor market area to be applied to a new wage index and considerations for when neighboring areas have large differences in wage index values. In past rules, we have stated that OMB's geographic area delineations represent a useful proxy for differentiating between labor markets and that the geographic area delineations are appropriate for use in determining Medicare hospice payments. While we continue to hold this belief, we sought feedback from interested parties on what other delineation would be appropriate and what data sources could be used to support the changes.

*(5) Transition policy:* We sought feedback on what an appropriate transition policy may be when shifting from a wage index using hospital IPPS wage data to a hospice specific wage index using BLS wage data.

We appreciate hospices and national organizations sharing their support and commitment to offering meaningful comments for consideration. In addition to the methodological questions,

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<sup>23</sup> <https://www.medpac.gov/wp-content/uploads/2022/07/Wage-index-March-2023-SEC.pdf>.

we solicited public comment on the following questions:

- What data sources and changes should be considered to develop a wage index specific for hospices?
- What are the advantages of the suggested approach to constructing wage indexes, relative to the current system?
- What are the main limitations of the suggested approach?
- Can any limitations be addressed through changes to the data sources mentioned, such as cost reports and claims?
- What occupations should be included in the occupational mix to estimate geographic differences in expected prices to employ healthcare staff in hospices?
- What additional labor categories, if any, should be added to cost reports to support the revision of the hospice wage index? Are any other changes to the cost reports required for this purpose?
- How should we appropriately compare wages between geographic areas that match the way hospice services are delivered? Should we maintain the use of CBSA, or consider other geographic delineation, such as county, census area, etc.?
- How should we reduce large differences in wage index values for adjacent geographic areas?
- How should we consider policy to support the transition between the current hospice wage index approach to a new one?

We received several public comments on our request for information regarding the development of a hospice specific wage index. A summary of the comments and our responses to those comments are as follows:

*Comment:* In general, commenters expressed support in the difference in labor used in hospitals relative to hospices and interest in the creation of a wage index that captures the occupations used in hospices. Many commenters were concerned about whether the

methodology would be appropriate to capture local geographic variation with the national occupational mix and wages. Several commenters raised concerns such as transparency of the information used to reflect the hospice labor mix, rural service areas and the non-billable work needed to provide home-based care. Specific concerns about the preliminary hospice occupational mix included opposition to the occupational mix because occupations that are not tied directly to billable reimbursement were excluded from the occupational mix, such as chaplains. Some commenters recommended that CMS account for rural travel, mileage, on-call coverage, provider-level impact modeling, and delay in implementation to avoid abrupt geographic disruptions.

*Response:* We thank all the commenters for these comments and for raising their concerns regarding the development of a hospice-specific wage index. While we are not responding to specific comments in response to the RFI in this final rule, we will take this feedback into consideration as we continue to examine possible alternatives to using the IPPS wage index for geographically adjusting hospice payments.

### 3. Request for Information Regarding Medical Aid in Dying (MAID)

The Assisted Suicide Funding Restriction Act of 1997 (Pub. L. 105-12, April 30, 1997) prohibits the use of Federal funds (through Medicare, Medicaid, and other Federal programs) to provide or pay for any health care item or service, or health benefit coverage, for the purpose of causing, or assisting to cause, the death of any individual including mercy killing, euthanasia, or assisted suicide, sometimes referred to as “medical aid in dying” (MAID).<sup>24</sup> This law amended

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<sup>24</sup> CMS notes that entities must also comply with Section 1553 of the Affordable Care Act. Section 1553 prohibits the Federal Government, and any State or local government or health care provider that receives Federal financial assistance under the ACA, or any health plan created under the ACA from discriminating against an individual or health care entity on the basis that the individual or entity does not provide any health care item or service for assisted suicide, euthanasia, or mercy killing. Section 1553 clarifies it does not apply to withholding or withdrawing medical treatment or medical care, nutrition or hydration, abortion, or use of item or service to alleviate pain or discomfort withholding or withdrawing of medical treatment or care, nutrition or hydration or to the provision of a service for the purpose of alleviating pain or discomfort, even if the use may increase the risk of death, so long as the service is not furnished for the specific purpose of causing or assisting in causing, death, for any reason. CMS also notes that covered entities violate 42 U.S.C. 14406 if they interpret 42 U.S.C. 1395cc(f) or 1396a(w) to require covered entities or their employees “to inform or counsel any individual regarding any right to obtain an item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of the individual, such as by assisted suicide, euthanasia, or mercy killing; or to apply to or to affect any requirement with

section 1862(a) of the Act (exclusions from coverage and Medicare as secondary payor) by adding a new paragraph (16) to the list of programs for which no payment may be made under Part A or Part B. CMS codified the exclusion of assisted suicide from coverage in regulation at § 411.15(q). This regulation clarifies that the prohibition does not pertain to the withholding or withdrawing of medical treatment or care, nutrition or hydration or to the provision of a service for the purpose of alleviating pain or discomfort, even if the use may increase the risk of death, so long as the service is not furnished for the specific purpose of causing death. MAID is not legal under Federal law; however, it is considered an end-of-life option for terminally ill adults to self-administer life-ending medication prescribed by a physician in certain States where it is allowed under State law. It is currently legal in 11 States and Washington, D.C., and under these existing State laws, strict criteria require a prognosis of 6 months or less to live. More States are passing laws allowing MAID, creating new challenges for hospices and other providers that participate in Federal health programs on how to navigate relevant State and Federal laws.

Because of State requirements (where MAID is allowed under State law) that a patient be terminally ill, we requested information in the proposed rule from hospice providers and other interested parties regarding issues that may arise when a Medicare hospice patient requests MAID. In particular we asked:

- What information do hospice providers give to these patients and how often is there overlap when a patient pursues MAID? In other words, do hospices generally continue to provide clinical care while a patient seeks qualification for MAID and do patients generally remain on service until death?

- Conversely, do hospices encourage patients to revoke their election if they choose to utilize MAID?

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respect to a portion of an advance directive that directs the purposeful causing of, or the purposeful assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.” 42 U.S.C. 14406. The Office for Civil Rights investigates complaints related conscience statutes such as Section 1553, 42 U.S.C. 14406, or religious nondiscrimination provisions. See <https://www.hhs.gov/conscience/your-protections-against-discrimination-based-on-conscience-and-religion/index.html>.

- Is there confusion amongst hospices regarding visits or other comfort measures that can be provided during this process, especially on the day of death?
- Do hospices have written policies regarding caring for patients using MAID? We are especially interested in understanding what hospices do with any unused lethal medications prescribed for MAID.

We also reiterated that no Medicare funds, including hospice payments, may be used to facilitate MAID, including physician consultation services, prescribing or dispensing of medications used for the purpose of causing death, or assistance with the ingestion of such medications. As such, we requested information on any additional CMS oversight mechanisms that should be in place to safeguard the use of Federal funds for the provision of MAID items and services. We requested additional information regarding hospices' experience with patients choosing to utilize MAID, with the expectation that hospice providers and staff are adhering to Federal law.

We received public comments on our request for information regarding State MAID laws and the provision of hospice care. A summary of the comments and our responses to those comments are as follows:

*Comment:* A few commenters, while acknowledging funds for MAID are federally prohibited, urged CMS to consider that integrating MAID into comprehensive hospice care is in the best interest of terminally ill patients. These commenters stated patients often must revoke hospice to pursue MAID and in doing so lose access to continuity of care, pain management, and emotional support. A few commenters (who identified themselves as hospice providers) stated that most hospices continue to provide hospice care to patients who choose MAID until the day of death, while still respecting the restrictions outlined in the Assisted Suicide Funding Restriction Act of 1997. These commenters noted that, in States where MAID laws exist, patients should have the right to receive hospice care regardless of their decision to seek MAID, and that hospices have very clearly outlined policies (including for unused medication) in place

for these patients in order to adhere to Federal law. These commenters also noted that hospices do not encourage revocation of hospice care when patients express an interest in MAID.

Overwhelmingly, commenters opposed any potential CMS policy that would integrate MAID into Medicare-funded hospice care, primarily citing the Assisted Suicide Funding Restriction Act, ethical concerns rooted in the Hippocratic tradition, risks to vulnerable populations, and the importance of using different terminology (“assisted suicide,” rather than MAID). Several physician commenters also raised concerns about billing fraud and the need for stronger CMS oversight, such as service audits. Another commenter stated that accreditation requirements should clearly outline how the hospice agency complies with Federal statutes on funding in those States where assisted suicide is allowed.

*Response:* We thank all commenters for their comments and would like to note that this request for information was in no way intended to precede a proposal or to indicate that we are considering the integration of MAID into hospice care. Our intent was to gain a better understanding of the landscape around hospice care and MAID to determine whether more oversight is required to safeguard the use of Federal funds from the provision of MAID items and services.

## *F. Updates for the Hospice Quality Reporting Program (HQRP)*

### 1. Background and Statutory Authority

Section 1814(i)(5) of the Act requires the Secretary to establish and maintain a quality reporting program for hospices. The Hospice Quality Reporting Program (HQRP), consisting of Hospice Outcomes and Patient Evaluation (HOPE) administrative data, and Consumer Assessment of Healthcare Providers and Systems (CAHPS®), Hospice Survey, specifies reporting requirements that hospices complete and submit a standardized set of items for each patient to capture patient-level data, regardless of payer or patient age (§ 418.312(b)). Beginning with FY 2014, section 1814(i)(5) of the Act requires the Secretary to reduce the market basket update by 2 percentage points for those hospices failing to meet quality reporting requirements. Section 407(b) of Division CC, Title IV of the Consolidated Appropriations Act (CAA), 2021 amended section 1814(i)(5)(A)(i) of the Act to change the payment reduction for failing to meet hospice quality reporting requirements from 2 to 4 percentage points beginning in FY 2024 for any hospice that does not comply with the submission requirements provided for that FY. In the FY 2024 Hospice final rule (88 FR 51164), we codified the application of the 4-percentage point payment reduction for failing to meet hospice quality reporting requirements and set completeness thresholds at § 418.312(j).

Depending on the amount of the annual update for a particular year, a reduction of 4 percentage points beginning in FY 2024 could result in the annual market basket update being less than zero percent for a FY and may result in payment rates that are less than payment rates for the preceding FY. Any reduction based on failure to comply with the reporting requirements, as required by section 1814(i)(5)(B) of the Act, would apply only for the specified year.

In the FY 2014 Hospice Wage Index and Payment Rate Update final rule (78 FR 48234, 48257 through 48262), and in compliance with section 1814(i)(5)(C) of the Act, we finalized a new standardized patient-level data collection vehicle called the Hospice Item Set (HIS). We also

finalized the specific collection of data items that support eight consensus-based entity (CBE)-endorsed measures for hospice.

In the FY 2015 Hospice Wage Index and Payment Rate Update final rule (79 FR 50452), we finalized national implementation of the CAHPS® Hospice Survey, a component of the CMS HQRP which is used to collect data on the experiences of hospice patients and the primary caregivers listed in their hospice records. Readers who want more information about the development of the survey, originally called the Hospice Experience of Care Survey, may refer to the FY 2014 and FY 2015 Hospice Wage Index and Payment Update final rules (78 FR 48234 and 79 FR 50452, respectively) or to <https://www.hospicecahpssurvey.org/>. National implementation commenced January 1, 2015. We adopted eight CAHPS® survey-based measures for the CY 2018 data collection period and for subsequent years. These eight measures are publicly reported on the Care Compare website.

In the FY 2016 Hospice Wage Index and Rate Update final rule (80 FR 47142, 47186 through 47188), we finalized the policy for retention of HQRP measures adopted for previous payment determinations and seven factors for removal. In that same final rule, we discussed how we would provide public notice through rulemaking of measures under consideration for removal, suspension, or replacement. We also stated that if we had reason to believe continued collection of a measure raised potential safety concerns, we would take immediate action to remove the measure from the HQRP and not wait for the annual rulemaking cycle. The measures would be promptly removed, and we would immediately notify hospices and the public of such a decision through the usual HQRP communication channels, including but not limited to listening sessions, email notifications and web postings. In such instances, the removal of a measure would be formally announced in the next annual rulemaking cycle.

On August 31, 2020, we added correcting language to the FY 2016 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements; Correcting Amendment (85 FR 53679) hereafter referred to as the FY 2021 HQRP Correcting Amendment. In the

correcting amendment, we made updates to § 418.312 to correct technical errors identified in the FY 2016 Hospice Wage Index and Payment Rate Update final rule. Specifically, the FY 2021 HQRP Correcting Amendment (85 FR 53679) added paragraph (i) to § 418.312 to reflect our exemptions and extensions requirements for reporting, which were referenced in the preamble but inadvertently omitted from the regulations text. Thus, these exemptions or extensions can occur when a hospice encounters certain extraordinary circumstances.

In the FY 2017 Hospice Wage Index and Payment Rate Update final rule, we finalized the “Hospice Visits When Death is Imminent” measure pair (HVWDII, Measure 1 and Measure 2), effective April 1, 2017. We refer the public to the FY 2017 Hospice Wage Index and Payment Rate Update final rule (81 FR 52144, 52163 through 52169) for a detailed discussion.

As stated in the FY 2019 Hospice Wage Index and Rate Update final rule (83 FR 38622, 38635 through 38648), we launched the “Meaningful Measures Initiative” (which identifies high priority areas for quality measurement and improvement) to improve outcomes for patients, their families, and providers while also reducing burden on clinicians and providers. The Meaningful Measures Initiative is not intended to replace any existing CMS quality reporting programs but would help such programs identify and select individual measures. The Meaningful Measures Initiative priority areas are intended to increase measure alignment across our quality programs and other public and private initiatives. Additionally, it would point to high priority areas where there may be gaps in available quality measures while helping to guide our efforts to develop and implement quality measures to fill those gaps. More information about the Meaningful Measures Initiative can be found at <https://www.cms.gov/medicare/quality/meaningful-measures-initiative>.

In the FY 2022 Hospice Wage Index and Payment Rate Update final rule (86 FR 42552), we finalized two new measures using claims data: (1) Hospice Visits in the Last Days of Life (HVLDDL); and (2) Hospice Care Index (HCI). We also removed the HVWDII measure, as it was replaced by HVLDDL. We also finalized a policy that claims-based measures would use

8 quarters of data, which would allow CMS to publicly report on more hospices. Additionally, the rule indicated that public data reflecting hospices’ reporting of the two new claims-based quality measures (QMs), the HVLDL and the HCI measures, would be available on the Care Compare/Provider Data Catalogue (PDC) webpages as of the August 2022 refresh.

In addition, we removed the seven HIS Process Measures from the program as individual measures, and ceased their public reporting because, in our view, the HIS Comprehensive Assessment Measure is sufficient for measuring care at admission without the seven individual process measures. In the FY 2022 Hospice Wage Index and Rate Update final rule (86 FR 42553), we finalized § 418.312(b)(2), which requires hospices to provide administrative data, including claims-based measures, as part of the HQRP requirements for § 418.306(b). In that same final rule, we provided CAHPS Hospice Survey updates. In the FY 2023 and FY 2024 Hospice Wage Index final rules, we did not propose any new quality measures. However, we provided updates on already-adopted measures. In the FY 2025 Hospice Wage Index final rule, the HQRP finalized two measures, including new data collection through the Hospice Outcomes and Patient Evaluation (HOPE) tool and plans for further development. The FY 2026 Hospice Wage Index final rule provided updates on the HOPE instrument and public reporting.

Table 12 shows the current quality measures in effect for the FY 2027 HQRP, which were updated and finalized in the FY 2025 Hospice Wage Index and Payment Rate Update final rule.

**TABLE 12: Quality Measures in Effect for the FY 2027 Hospice Quality Reporting Program**

| <b>Hospice Quality Reporting Program</b>                                                                      |                                                               |
|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| <b>Hospice Outcomes and Patient Evaluation (HOPE)</b>                                                         |                                                               |
| Hospice and Palliative Care Composite Process Measure—Comprehensive Assessment Measure at Admission includes: |                                                               |
| 1.                                                                                                            | Patients Treated with an Opioid who are Given a Bowel Regimen |
| 2.                                                                                                            | Pain Screening                                                |
| 3.                                                                                                            | Pain Assessment                                               |
| 4.                                                                                                            | Dyspnea Treatment                                             |
| 5.                                                                                                            | Dyspnea Screening                                             |
| 6.                                                                                                            | Treatment Preferences                                         |
| 7.                                                                                                            | Beliefs/Values Addressed (if desired by the patient)          |
| <b>Administrative Data, including Claims-based Measures</b>                                                   |                                                               |

|                                                 |                                                                                                                                 |
|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Hospice Visits in the Last Days of Life (HVLDL) |                                                                                                                                 |
| Hospice Care Index (HCI)                        |                                                                                                                                 |
| 1.                                              | Continuous Home Care (CHC) or General Inpatient (GIP) Provided                                                                  |
| 2.                                              | Gaps in Skilled Nursing Visits                                                                                                  |
| 3.                                              | Early Live Discharges                                                                                                           |
| 4.                                              | Late Live Discharges                                                                                                            |
| 5.                                              | Burdensome Transitions (Type 1)—Live Discharges from Hospice Followed by Hospitalization and Subsequent Hospice Readmission     |
| 6.                                              | Burdensome Transitions (Type 2)—Live Discharges from Hospice Followed by Hospitalization with the Patient Dying in the Hospital |
| 7.                                              | Per-beneficiary Medicare Spending                                                                                               |
| 8.                                              | Skilled Nursing Care Minutes per Routine Home Care (RHC) Day                                                                    |
| 9.                                              | Skilled Nursing Minutes on Weekends                                                                                             |
| 10.                                             | Visits Near Death                                                                                                               |
| <b>CAHPS Hospice Survey</b>                     |                                                                                                                                 |
| CAHPS Hospice Survey                            |                                                                                                                                 |
| 1.                                              | Communication with Family                                                                                                       |
| 2.                                              | Getting Timely Help                                                                                                             |
| 3.                                              | Treating Patient with Respect                                                                                                   |
| 4.                                              | Emotional and Spiritual Support                                                                                                 |
| 5.                                              | Help for Pain and Symptoms                                                                                                      |
| 6.                                              | Training Family to Care for Patient                                                                                             |
| 7.                                              | Care Preferences                                                                                                                |
| 8.                                              | Rating of this Hospice                                                                                                          |
| 9.                                              | Willing to Recommend this Hospice                                                                                               |

## 2. Updates Regarding the HOPE Measures

The HOPE tool was developed as the new patient data collection tool to replace the HIS as part of the HQRP. HOPE was finalized in the FY 2025 Hospice Wage Index final rule (89 FR 64202) and implemented on October 1, 2025. Additional information regarding HOPE and its associated costs and burden can be found in the FY 2025 Paperwork Reduction Act of 1995 (PRA) submission (CMS-10390; OMB Control Number: 0938-1153).

As finalized in the FY 2025 Hospice Wage Index final rule (89 FR 64202), public reporting of the HOPE quality measures would be implemented no earlier than FY 2028. CMS still expects to begin public reporting in November 2027, but this may change based on the quality and reportability of the data as determined by the CMS analysis of CY 2026 data, which would begin in CY 2027.

To meet the assessment timeliness threshold under the Annual Payment Update (APU), hospices must achieve a timely submission rate of 90 percent or higher for FY2027. This means that 90 percent of all HIS and/or HOPE assessments must be submitted to, and accepted by,

CMS within 30 days of the patient's admission or discharge date. For HIS assessments, the reporting period is based on the submission of HIS admission or discharge assessments between January 1, 2025, and September 30, 2025. HOPE assessments began submission on October 1, 2025; therefore, the reporting period is based on the submission of the HOPE admission, discharge, and/or HOPE Update Visit (HUV) records between October 1, 2025, and December 31, 2025.

Due to the newness of the HOPE tool along with the migration to the iQIES platform, CMS has granted a waiver to all HOPE records dated October 1, 2025, through December 31, 2025, and as a result, all HOPE records with a target date in 2025 will be considered timely.

CMS continues to offer many trainings and educational opportunities through our websites, which are available 24/7, 365 days per year, to enable hospice staff to learn at the pace and time of their choice. Available trainings can be found on the HQRP Training and Education Library webpage at <https://www.cms.gov/medicare/quality/hospice/hqrp-training-and-education-library> and additional resources are located on the Requirements and Best Practices webpage at <https://www.cms.gov/medicare/quality/hospice/hqrp-requirements-and-best-practices>.

We received several public comments on the updates regarding the HOPE measures. The following is a summary of the comments we received and our responses.

*Comment:* Commenters generally supported CMS' transition to the HOPE tool and appreciate the temporary timeliness waiver for 2025 assessments, viewing it as a necessary accommodation during early implementation. Generally, interested parties emphasized that hospices continue to face major operational challenges, including vendor readiness, iQIES transition issues, workflow redesign, staff training needs, and existing workforce shortages. Many commenters recommend phased implementation, expanded technical assistance, clearer guidance, hardship or reconsideration pathways, and continued flexibility so compliance expectations remain realistic and do not divert resources from patient care. Several commenters also requested that CMS ensure HOPE measures are clinically meaningful and actionable,

including consideration of telehealth flexibility for reassessments and stronger attention to psychosocial, spiritual, and access-to-care dimensions.

*Response:* We appreciate the input on the implementation of the HOPE tool, which began October 1, 2025. We understand some providers still face challenges in implementing the HOPE tool and transitioning to iQIES; however, we believe the timeliness waiver finalized in this rule for all 2025 HOPE records will mitigate challenges and the transition to iQIES. When considering future updates to the HOPE tool, we will take these comments into consideration regarding implementation. We have also reiterated in this final rule, where providers can seek resources regarding the HOPE tool.

### 3. Adding an Icon for Hospices on Medicare.gov Compare Tool to Indicate Failure to Meet Reporting Requirements

Since the creation of the Medicare.gov Compare Tool (<https://www.medicare.gov/care-compare/>) in 2020, CMS has made improvements to the information available to consumers to drive quality improvement among care settings. Due to the unique challenge of caring for patients in their last days of life, the HQRPs have very few publicly reported measures compared to other care settings. Therefore, this lack of information in comparison can make it more challenging for consumers to differentiate between hospices when searching for end-of-life care. To help provide additional information and context to consumers, while also serving to highlight non-compliant hospices, we proposed to add an icon identifying hospice facilities, on the Medicare.gov Compare Tool, that have failed to meet reporting requirements for the HQRPs.

We stated that the proposed icon will identify hospices failing to submit any data or submitting less than the required 90 percent of HOPE submissions within 30 days of the target dates for HOPE admission, HUVs, and discharge within a year period. Despite the APU penalty increase from 2 percent to 4 percent in FY 2024, we have not observed a significant improvement in the number of hospices meeting the QRP reporting requirements. In FY 2023, prior to the APU percentage increase to 4 percent, 20.07 percent of hospices were found to be

non-compliant with the HIS reporting requirements. In FY 2024, the first year of the 4 percent APU penalty, 22.06 percent of hospices were found to be non-compliant. In FY 2025, the percentage of non-compliant hospices increased to 23.53 percent and in FY 2026 the percentage of non-compliant hospices was 20.37 percent. The consistent lack of data for approximately one-fifth of hospices limits the ability of CMS to accurately measure the quality of care provided by hospices and limits the amount of data available to a consumer. We proposed to add an icon to provide an incentive for hospices to comply with the quality data submission requirements, while also communicating to consumers that CMS may not have enough data to adequately determine the quality of the hospice.

We proposed to add the icon to the Medicare.gov Compare Tool no earlier than FY 2028 (October 1, 2027) to align with the addition of HOPE data to the Medicare.gov site, and the data will be based on CY 2026 APU submission data received from January 1, 2026, through December 31, 2026. We stated that the proposed icon will be added or removed on an annual basis to give hospices an ample amount of time to review and correct data, and to comply with the 90 percent threshold. We also stated that the proposed icon would be visible both on the provider search page, as well as the individual hospice page on the Compare Tool, similar to how the icons appear for nursing homes and hospitals on the Medicare.gov site. Additional information will be added to the Compare Tool to ensure consumers are aware of what the icon means and how it should be taken into consideration. The aim of the icon would be to notify consumers that the hospice did not report sufficient data to CMS. Additional information about HQRP reporting requirements and APU penalty can be found on the HQRP Requirements and Best Practices website at <https://www.cms.gov/medicare/quality/hospice/hqrp-requirements-and-best-practices>. We sought public comment on our proposal to include an icon for hospices on the Medicare.gov Compare Tool to identify hospices that do not comply with the quality data submission requirements for the APU.

We would like to clarify that the icon will only be based on HOPE submissions

(admissions, HUVs, and discharges) and will not include CAHPS data submission compliance.

As many hospices are exempt from CAHPS due to size limitations, we made the decision to not include CAHPS reporting compliance at this time. We would also like to make clear that any hospice that is exempted from HQRP reporting requirements due to extraordinary circumstances will not be identified by the icon. This may also apply to new hospices that receive a CCN letter late in the calendar year, whereby the hospice will be excluded from the HQRP reporting requirements and APU penalty for the corresponding FY. For more information, please see the HQRP Extension and Exemption Requests webpage

(<https://www.cms.gov/medicare/quality/hospice/hqrp-extensions-and-exemption-requests>).

We received 42 public comments on adding an icon for Hospices on the Medicare.gov Compare Tool. The following is a summary of the comments we received and our responses.

*Comment:* Several commenters supported the proposal to add an icon to the Medicare.gov Compare Tool, noting the icon is an appropriate measure to promote transparency and improve quality reporting compliance. Among the commenters who supported the icon, there were requests for CMS to ensure the icon is presented in a consumer-friendly way so that it is easily understandable by consumers. They noted the importance of using clear language indicating that the presence of the icon is due to a failure to meet reporting requirements and not due to quality of care or safety issues at the hospice. There were also requests to clarify how CAHPS non-participation would be included in the icon and how exemptions would be applied with the icon.

*Response:* We appreciate all commenters input regarding the proposal to add an icon to the Medicare.gov Compare Tool. In this final rule, we clarify whether CAHPS reporting will be included in the icon, and whether hospices that are excluded from the reporting requirements will be identified with the icon. We understand that many commenters are worried about how the icon will affect consumers searching for hospices, not wanting patients and families to confuse failing reporting requirements with the quality or safety of care provided by a hospice. We will

work to ensure that the icon will not cause undue concern and will include a plain-language explanation of what the icon means. We will also ensure nondiscrimination in the use of the icon and will, on an ongoing basis, make reasonable efforts to identify uses of patient care decision support tools that employ input variables or factors that measure race, color, national origin, sex, age, or disability.

*Comment:* Many commenters requested that CMS distinguish between two groups, those that do not submit any data to the HQRP and those that do submit data but fall below the 90 percent threshold in the 30 day period. Their concern was for hospices that may make good faith efforts, but experience technical or administrative challenges that may affect their ability to submit timely data to meet requirements, particularly for small and rural providers.

*Response:* We understand commenters' concerns around trying to differentiate hospices that consistently submit no HOPE data and those that submit data but fall short of the 90 percent minimum within the 30-day period. However, as the percentage of hospices not meeting HQRP reporting requirements has remained consistent at around 20 percent since FY 2023, we believe this indicates a consistent lack of improvement and not that hospices are just falling short of the guidelines every so often. We want to remind commenters that we offer many trainings and educational opportunities through our websites, which are available 24/7, 365 days per year, to enable hospice staff to learn at the pace and time of their choice. We want hospices to be successful with meeting the HQRP requirements and encourage hospices to review the available trainings that can be found on the HQRP Training and Education Library web page at <https://www.cms.gov/medicare/quality/hospice/hqrp-training-and-education-library> and the additional resources that are located on the Requirements and Best Practices web page at <https://www.cms.gov/medicare/quality/hospice/hqrp-requirements-and-best-practices>.

We also plan to monitor the number of hospices that continue to meet, and miss, the HOPE reporting requirements for the APU to understand the effect the icon may have on HQRP compliance across all hospices beginning in FY 2028.

*Comment:* Other commenters were strongly opposed to the addition of an icon to the Compare Tool. A few commenters opposed the icon as they feared it would mislead consumers, duplicate existing penalties, and not distinguish between hospices that do not submit any data and those that are not able to submit timely data due to technical issues. One commenter thought that CMS should only use positive icons, such as those used to designate Birthing-Friendly hospitals, rather than negative icons. Lastly, one commenter believed the icon would be insufficient and instead requested that CMS adopt stronger incentives for participation.

*Response:* We recognize that many providers would prefer that CMS not add an icon to the Compare Tool. As noted, we will work to ensure the icon includes plain-language to ensure consumers understand the meaning of the icon. Regarding the desire to only have positive icons on the Compare Tool, we note that multiple provider settings use negative icons, such as Nursing Homes which uses a negative icon to note when a facility has been cited for abuse. We believe a negative icon is a more effective incentive for hospices to meet HQRP requirements rather than a positive icon.

We also appreciate that some commenters stated stronger enforcement related actions are needed to increase the number of hospices meeting the HQRP requirements. We may consider strong reporting-related enforcement to increase transparency and accountability processes in future rulemaking proposals.

*Comment:* A small handful of commenters also requested that CMS add a confidential preview period, where providers who will have the icon applied to their hospice have an opportunity to review their data and request a reconsideration of the icon.

*Response:* Regarding a preview period, providers currently have a reconsideration request process if a hospice is found to be non-compliant with the HQRP requirements. Once a hospice receives a letter of non-compliance, hospices have 30 days to submit a reconsideration request to CMS. Given this existing mechanism, we will not provide an additional review period for the icon. More information about the APU reconsideration process can be found on the

HQRP Reconsiderations Request webpage (<https://www.cms.gov/medicare/quality/hospice/hqrp-reconsideration-requests>).

After consideration of public comments, we are finalizing the icon as proposed.

#### 4. Future Measures Update

In the FY 2022 Hospice Wage Index and Payment Rate Update final rule (86 FR 42552), we finalized two new measures using claims data: (1) HVLDL; and (2) HCI. Our measure selection activities for the HQRP take into consideration input we receive from the CBE, as part of a pre-rulemaking process that we have established and are required to follow under section 1890A of the Act. The CBE convenes interested parties from multiple groups to provide CMS with recommendations on the Measures Under Consideration (MUC) list. This input informs how CMS selects certain categories of quality and efficiency measures as required by section 1890A(a)(3) of the Act. By February 1st of each year, the CBE must provide that input to CMS.

A Technical Expert Panel (TEP) convened in November 2024 provided input on potential new HCI indicators. This report can be found at <https://www.cms.gov/files/document/fall-2024-hqrp-tep-summary-report508c.pdf>. Based on this feedback, along with input from other interested parties and additional analysis of the measure and its indicators, CMS is currently considering making changes to the HCI measure and plans to submit the updated measure to the 2026 MUC list. The aim of re-specifying the HCI measure is to make it more useful and important to providers and consumers.

We received several public comments on the future measure updates regarding HCI. The following is a summary of the comments we received and our responses.

*Comment:* Commenters generally supported CMS' effort to refine and re-specify the HCI, viewing it as an opportunity to improve the measure's validity, reliability, and usefulness for providers and consumers. Several commenters agreed with the TEP's concerns that some existing indicators - particularly those related to continuous home care, general inpatient care, and certain burdensome transition and live discharge measures - may not accurately reflect

hospice quality and can be affected by billing rules, patient preferences, or hospice case-mix. Multiple commenters called for reducing redundancy, such as removing measures that overlap with existing hospice visit indicators, and for greater transparency around CMS' methodology, testing, and impact analyses before finalizing changes. Commenters also emphasized the need for risk adjustment and equity review to ensure the revised HCI does not unfairly penalize small, rural, or clinically complex hospices. Overall, commenters encouraged CMS to preserve meaningful quality measurement while revising scoring and indicator design to better distinguish true differences in hospice performance.

*Response:* We thank the commenters for their thoughts and input into the re-specification of HCI. These comments will be taken into consideration as CMS continues to further develop the revised HCI.

## 5. Form, Manner, and Timing of Quality Measure Data Submission

### a. Statutory Penalty for Failure to Report

Section 1814(i)(5)(C) of the Act requires that each hospice submit data to the Secretary on quality measures specified by the Secretary. The data must be submitted in a form and manner, and at a time specified by the Secretary. Section 1814(i)(5)(A)(i) of the Act was amended by the CAA, 2021 and the payment reduction for failing to meet hospice quality reporting requirements was increased from 2 percent to 4 percent beginning with FY 2024. During FYs 2014 through 2023, the Secretary reduced the market basket update by 2 percentage points for non-compliance. Beginning in FY 2024 and for each subsequent year, the Secretary will reduce the market basket update by 4 percentage points for any hospice that does not comply with the quality measure data submission requirements for that FY. In the FY 2023 Hospice Wage Index final rule (87 FR 45669), we revised our regulations at § 418.306(b)(2) in accordance with this statutory change.

### b. Compliance

HQRP Compliance requires understanding the different timeframes for both HIS (or HOPE) and CAHPS: The relevant Reporting Year, the payment FY, and the Reference Year.

- The “Reporting Year” (HIS or HOPE) or “Data Collection Year” (CAHPS) is based on the calendar year (CY). It is the same CY for both HIS (or HOPE) and CAHPS. If the CAHPS Data Collection year is CY 2025, then the HIS (or HOPE) reporting year is also CY 2025.

- In the “Payment FY”, the APU is subsequently applied to FY payments based on compliance in the corresponding Reporting Year/Data Collection Year.

- For the CAHPS Hospice Survey, the Reference Year is the CY before the Data Collection Year. The Reference Year applies to hospices submitting a size exemption from the CAHPS survey (there is no similar exemption for HIS or HOPE).<sup>25</sup> For example, for the CY 2025 data collection year, the Reference Year is CY 2024. This means providers seeking a size exemption for CAHPS in CY 2025 will base it on their hospice size in CY 2024.

Submission requirements are codified at § 418.312. Table 13 summarizes the three timeframes. It illustrates how the CY interacts with the FY payments, covering the CY 2025 through CY 2028 data collection periods and the corresponding APU application from FY 2027 through FY 2030. Please note that for the final quarter of CY 2025, CMS has granted a waiver to all HOPE records dated October 1, 2025 through December 31, 2025, and as a result, all HOPE records with a target date in 2025 will be considered timely.

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<sup>25</sup> CAHPS Hospice Survey, Participation Exemption for Size. <https://www.hospicecahpsurvey.org/en/participation-exemption-for-size/>.

**TABLE 13: HQRP Reporting Requirements and Corresponding Annual Payments Updates**

| <b>Reporting Year for HIS/HOPE and Data Collection Year for CAHPS data (Calendar year)</b> | <b>Annual Payment Update Impacts Payments for the FY</b> | <b>Reference Year for CAHPS Size Exemption (CAHPS only)</b> |
|--------------------------------------------------------------------------------------------|----------------------------------------------------------|-------------------------------------------------------------|
| CY 2025                                                                                    | FY 2027 APU                                              | CY 2024                                                     |
| CY 2026                                                                                    | FY 2028 APU                                              | CY 2025                                                     |
| CY 2027                                                                                    | FY 2029 APU                                              | CY 2026                                                     |
| CY 2028                                                                                    | FY 2030 APU                                              | CY 2027                                                     |

As illustrated in Table 13, CY 2025 data submissions compliance impacts the FY 2027 APU. CY 2026 data submissions compliance impacts the FY 2028 APU. CY 2027 data submissions compliance impacts FY 2029 APU. This CY data submission impacting FY APU pattern follows for subsequent years.

c. Submission of Data Requirements

As finalized in the FY 2016 Hospice Wage Index final rule (80 FR 47142, 47192), hospices' compliance with HIS requirements beginning with the FY 2020 APU determination (that is, based on HIS Admission and Discharge records submitted in CY 2018) are based on a timeliness threshold of 90 percent. This means CMS requires that hospices submit 90 percent of all required HIS records within 30 days of the event (that is, patient's admission or discharge). The 90-percent threshold is hereafter referred to as the timeliness compliance threshold. Ninety percent of all required HIS records must be submitted and accepted within the 30-day submission deadline to avoid the statutorily mandated payment penalty.

We applied the same submission requirements for HOPE admission, discharge, and up to two hospice update visit (HUV) records. Hospices will continue to be required to submit 90 percent of all required HOPE records to support the quality measures within 30 days of the event or completion date (patient's admission, discharge, and based on the patient's length of stay up to two HUV timepoints).

Hospice compliance with claims data requirements is based on administrative data collection. Since Medicare claims data are already collected from claims, hospices are

considered 100 percent compliant with the submission of these data for the HQR. There is no additional submission requirement for administrative data.

To comply with CMS' quality reporting requirements for CAHPS, hospices are required to collect data monthly using the CAHPS Hospice Survey. Hospices comply by utilizing a CMS-approved third-party vendor. Approved Hospice CAHPS vendors must successfully submit data on the hospice's behalf to the CAHPS Hospice Survey Data Center. A list of the approved vendors can be found on the CAHPS Hospice Survey website at <https://www.hospicecahpsurvey.org/>.

Table 14, HQR Compliance Checklist, illustrates the APU and timeliness threshold requirements.

**TABLE 14: HQR Compliance Checklist**

| <b>Annual Payment Update</b> | <b>HIS/HOPE</b>                                                                                                                                                                                                                          | <b>CAHPS</b>                                                                  |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| FY 2027                      | Submit at least 90 percent of all HIS/HOPE records within 30 days of the event date (for example, patient's admission or discharge) for patient admissions/discharges occurring 1/1/25-12/31/25                                          | Ongoing monthly participation in the Hospice CAHPS survey 1/1/2025-12/31/2025 |
| FY 2028                      | Submit at least 90 percent of all HOPE records within 30 days of the event or completion date (for example, patient's admission date, HUV completion date or discharge date) for patient admissions/discharges occurring 1/1/26-12/31/26 | Ongoing monthly participation in the Hospice CAHPS survey 1/1/2026-12/31/2026 |
| FY 2029                      | Submit at least 90 percent of all HOPE records within 30 days of the event or completion date (for example, patient's admission date, HUV completion date or discharge date) for patient admissions/discharges occurring 1/1/27-12/31/27 | Ongoing monthly participation in the Hospice CAHPS survey 1/1/2027-12/31/2027 |
| FY 2030                      | Submit at least 90 percent of all HOPE records within 30 days of the event or completion date (for example, patient's admission date, HUV completion date or discharge date) for patient admissions/discharges occurring 1/1/28-12/31/28 | Ongoing monthly participation in the Hospice CAHPS survey 1/1/2028-12/31/2028 |

Note: The data source for the claims-based measures will be Medicare claims data that are already collected and submitted to CMS. There is no additional submission requirement for administrative data (Medicare claims), and hospices with claims data are 100-percent compliant with this requirement.

Most hospices that fail to meet HQRP requirements do so because they miss the 90 percent threshold. We offer many trainings and educational opportunities through our websites, which are available 24/7, 365 days per year, to enable hospice staff to learn at the pace and time of their choice. We want hospices to be successful with meeting the HQRP requirements. We encourage hospices to visit the frequently updated HQRP website at <https://www.cms.gov/medicare/quality/hospice>. Available trainings can be found on the HQRP Training and Education Library webpage at <https://www.cms.gov/medicare/quality/hospice/hqrp-training-and-education-library> and additional resources are located on the Requirements and Best Practices webpage at <https://www.cms.gov/medicare/quality/hospice/hqrp-requirements-and-best-practices>. We also encourage readers to stay informed about HQRP by visiting the HQRP Provider and Stakeholder Engagement webpage at <https://www.cms.gov/medicare/quality/hospice/provider-and-stakeholder-engagement> to sign-up for the Hospice Quality Lists.

## IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520, we are required to provide notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, 44 U.S.C. 3506(c)(2)(A) requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We solicited public comment on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

### *A. Wage Data Used for the Mandatory Election Statement Addendum*

To derive average (mean) costs, we are using May 2024 data from the U.S. Bureau of Labor Statistics' (BLS's) National Industry-Specific Occupational Employment and Wage Estimates for all wage estimates (<https://www.bls.gov/oes/special-requests/oesm24in4.zip>). In this regard, Table 15 outlines BLS's median hourly wage, our estimated cost of fringe benefits and other overhead costs (calculated at 100 percent of salary), and our adjusted hourly wage. Table 15 contains our wage rate data for the mandatory Election Statement Addendum: "Patient Notification of Hospice Non-Covered Items, Services, and Drugs" discussed in section III.B. of this final rule.

**TABLE 15: Adjusted Hourly Wages Used in Burden Estimates**

| Occupation Title     | Occupational Code | Median Hourly Wage (\$/hr.) | Fringe Benefits and Overhead (\$/hr.) | Adjusted Hourly Wage (\$/hr.) |
|----------------------|-------------------|-----------------------------|---------------------------------------|-------------------------------|
| Registered Nurse     | 29-1141           | \$39.34                     | \$39.34                               | \$78.68                       |
| Pharmacy Technicians | 29-2052           | \$22.90                     | \$22.90                               | \$45.80                       |

Source: Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment and Wage Statistics (OEWS), May 2024, NAICS 621600 – Home Health Care Services, <https://www.bls.gov/oes/special-requests/oesm24in4.zip>.  
<https://data.bls.gov/oes/#/industry/621600>.

### *B. Information Collection Requirements (ICRs)*

#### 1. Burden Related to Mandatory Election Statement Addendum: “Patient Notification of Hospice Non-Covered Items, Services, and Drugs”

**TABLE 16: Mandatory Election Statement Addendum: “Patient Notification of Hospice Non-Covered Items, Services, and Drugs” Burden Estimate Assumptions**

|                                                                                                          |                                       |
|----------------------------------------------------------------------------------------------------------|---------------------------------------|
| Number of Medicare-Billing Hospices from FY 2024 Medicare Enrollment Database, Provider of Service Files | 6,732                                 |
| Number of Hospice Elections in FY 2024                                                                   | $(1,873,148 \times 0.81) = 1,517,250$ |

Source: FY 2024 hospice claims data.

Notes: Nineteen percent of beneficiaries die within the first 5 days of hospice care. Hospices are exempt from completing the hospice election statement addendum if the beneficiary dies within the first 5 days of care.

Section 1814(a)(7) of the Act requires that for the first 90-day period of a hospice election, the individual's attending physician (as defined in section 1861(dd)(3)(B) of the Act) (which for purposes of this subparagraph does not include a nurse practitioner or a physician assistant), and the medical director (or physician member of the interdisciplinary group (IDG) described in section 1861(dd)(2)(B) of the Act) of the hospice program providing (or arranging for) the care, each certify in writing, at the beginning of the period, that the individual is terminally ill (as defined in section 1861(dd)(3)(A) of the Act). The regulations codified at §§ 418.22 and 418.25 provide the requirements regarding the certification of terminal illness and admission to hospice care. The hospice medical director must specify that the individual's prognosis is for a life expectancy of 6 months or less if the terminal illness runs its normal course. Additionally, clinical information and other documentation that support the medical

prognosis must accompany the certification and must be filed in the medical record with the written certification. The physician must include a brief narrative explanation of the clinical findings that supports a life expectancy of 6 months or less as part of the certification. The aforementioned regulations also require that the hospice medical director must consider both related and unrelated conditions and current clinically relevant information when making the decision to certify the individual as terminally ill. Likewise, the hospice CoPs at § 418.102(b) provide the requirements regarding the certification responsibility of the hospice medical director or hospice physician designee, which includes a review of the clinical information, including both related and unrelated conditions, for each hospice patient.

To receive hospice services under the Medicare hospice benefit, eligible beneficiaries must elect to receive hospice care by completing an election statement. By signing this election statement, the individual acknowledges that he or she waives all rights to Medicare payments for treatment related to the terminal illness and related conditions. The required content of the hospice election statement is outlined in part below and described in § 418.24(b):

- Identification of the particular hospice and of the attending physician that will provide care to the individual. The individual or representative must acknowledge that the identified attending physician was his or her choice.
- The individual's or representative's acknowledgement that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the individual's terminal illness.
- Acknowledgement that certain Medicare services, as set forth in § 418.24(d), are waived by the election.
- The effective date of the election, which may be the first day of hospice care or a later date but may be no earlier than the date of the election statement.
- The signature of the individual or representative.

Once a beneficiary is certified as terminally ill and elects the Medicare hospice benefit,

the hospice conducts an initial assessment visit in advance of furnishing care. During this visit, the hospice must provide the patient or representative with verbal and written notice of the patient's rights and responsibilities as required by the CoPs at § 418.52. Likewise, the regulations at § 476.78 state that providers must inform Medicare beneficiaries at the time of admission, in writing, that the care for which Medicare payment is sought will be subject to Quality Improvement Organization (QIO) review.

The beneficiary needs identified in the initial and comprehensive assessments drive the development and revisions of an individualized written plan of care for each patient as required by the hospice CoPs at § 418.56. The hospice plan of care is established, reviewed, and updated by the hospice IDG and must include all services necessary for the palliation and management of the terminal illness and related conditions. While needs unrelated to the terminal illness and related conditions are not the responsibility of the hospice, the hospice may choose to furnish services for those needs regardless of responsibility. However, if a hospice does not choose to furnish services for those needs unrelated to the terminal illness and related conditions, the hospice is to communicate and coordinate with those health care providers who are caring for the unrelated needs, as described in § 418.56(e). In accordance with the CoPs, the hospice must document the services and treatments that address how they will meet the patient and family-specific needs related to the terminal illness and related conditions in the plan of care, and those needs unrelated to the terminal illness and related conditions that are present when the patient elects hospice should also be documented. This documentation ensures that the hospice is aware of those unrelated needs and who is addressing them. This documentation provides the support for the hospices' financial responsibility for the hospice services they will be providing. There is limited beneficiary financial liability for hospice services upon election of the Medicare hospice benefit. However, for any services received that are unrelated to the terminal illness and related conditions, the beneficiary would incur any associated copayments and coinsurance.

Hospices already are required to review, determine, and document information on

unrelated conditions per the hospice regulations and CoPs. The FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484) finalized the requirement at § 418.24(b) and (c) for an election statement addendum titled "Patient Notification of Hospice Non-Covered Items, Services, and Drugs" that must be issued to the patient (or representative), upon request, within 5 days of the hospice election date, or within 3 days of the request during the course of hospice care (that is, after the first 5 days of the hospice election date), to ensure that Medicare beneficiaries are fully informed whether or not all items, services, and drugs identified on the hospice plan of care will be furnished by the hospice. The addendum statement is not required if the beneficiary dies within the required timeframe for furnishing the addendum. This addendum accompanies the hospice election statement. This requirement for payment is codified in the regulations at § 418.24(b) and (c).

To ensure Medicare beneficiaries are provided disclosure of those conditions, items, services, and drugs the hospice has determined to be unrelated to the terminal illness and related conditions at the time of admission, we proposed to make the issuance of the hospice election statement addendum, in writing, mandatory for all elections at the time of election, rather than upon request of the beneficiary (or representative). Currently, the regulations at § 418.24(b) and (c), require the election statement addendum titled "Patient Notification of Hospice Non-Covered Items, Services, and Drugs" to be issued to the individual (or representative) upon request. We proposed that the issuance of the hospice election statement addendum would be mandatory for all elections made on or after October 1, 2026, and would accompany the hospice election statement at the time of hospice election.

A one-time burden estimate for each hospice to develop and design their own addendum template to best meet their needs was completed in the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484). In the same rule, we also estimated the hospice's burden to complete the addendum; however, we will update these burden estimates to account for changes in the number of hospice elections and number of hospices. As mentioned in the FY 2020

Hospice Wage Index and Rate Update final rule (84 FR 38484), we believe there is no associated burden for hospices to communicate/coordinate with non-hospice providers regarding the content of the addendum statement because the hospice CoPs, as described previously, have always required hospices to have a system of communication with non-hospice providers in place. However, we believe that making the election statement addendum mandatory would reduce burden for non-hospice providers through a consistent and streamlined process by which non-hospice providers can make informed treatment decisions and accurately submit claims with the appropriate condition code or modifier. This requirement for payment is included in regulations at § 418.24(b) and (c).

The relevant information collection requirements are currently approved under OMB Control Number: 0938-1067/Expiration date: 2/28/2029.

### *C. Estimated Hospice Burden Related to Mandatory Election Statement Addendum*

#### 1. Estimated Time for Hospice to Complete Addendum

In accordance with the hospice CoPs at § 418.56(a), the hospice must designate a registered nurse that is a member of the IDG to provide coordination of care and to ensure continuous assessment of each patient's and family's needs and implementation of the interdisciplinary plan of care. The hospice CoPs at § 418.54 require that a registered nurse conduct the initial assessment, therefore, the registered nurse would be responsible for completing the addendum for each hospice election as part of the routine admission paperwork. We estimate that there would be 1,873,148 hospice elections in a year based on FY 2024 claims data. However, if a beneficiary dies within the first five days of the hospice election, an addendum would not be required to be provided. Approximately 19 percent (0.19) of hospice beneficiaries die within the first five days of hospice care. Therefore, the estimated total number of hospice elections in FY 2027 that would require the hospice election statement addendum would be  $(1,873,148 \times 0.81) = 1,517,250$ . There are 6,732 Medicare-certified hospices, so on average there would be  $(1,517,250/6,732) = 225$  hospice elections per hospice. The estimated

burden for the hospice registered nurse to extrapolate this information from the existing documentation in the patient's hospice medical record and complete this addendum would be 10 minutes ( $10/60 = 0.1667$ ). At \$78.68 per hour for a registered nurse over 10 minutes ( $0.1667 \times \$78.68 = \$13.12$ ), we estimate the total cost of RN time to complete the addendum per hospice in FY 2027 to be  $(\$13.12 \times 225) = \$2,952.00$ , and the total cost of RN time to complete the addendum for all hospices in FY 2027 would be  $(\$2,952.00 \times 6,732) = \$19,872,864.00$ . The estimated total per hospice and total annual hospice cost associated with the mandatory addendum in FY 2027 are shown in Table 17. These total costs only include the cost for the RN to complete the addendum statement, as a one-time burden estimate for the addendum form development was accounted for in FY 2020 (84 FR 38484). Additionally, providing this information to the beneficiary is currently part of the routine admissions process and, as such, incurs no additional burden to that process.

**TABLE 17: FY 2027 Estimated Per Hospice and Total Hospice Costs for Election Statement Addendum**

|                                       | <b>Average # of Elections<br/>Per Hospice</b> | <b>Total # of Hospice Elections<br/>(Based on FY 2024)</b> |
|---------------------------------------|-----------------------------------------------|------------------------------------------------------------|
| Number of Hospice Elections           | 225                                           | 1,517,250                                                  |
|                                       |                                               |                                                            |
| Total # of Hospices                   |                                               | 6,732                                                      |
|                                       |                                               |                                                            |
|                                       | Average Cost Per Hospice                      | Total Annual Costs for All Hospices                        |
| RN Form Completion per Hospice        | \$2,952.00                                    |                                                            |
| Total Hospice Estimated FY 2027 Costs |                                               | \$19,872,864.00                                            |

## 2. Burden Estimate Without Election Statement Addendum for Non-Hospice Providers

In order for non-hospice providers to make treatment decisions regarding services, items, and drugs for hospice beneficiaries and to submit the appropriate modifier or condition code on Medicare claims, they need supporting information from the hospice regarding related and unrelated conditions. As such, we first estimate the current burden associated with this communication and coordination in the absence of the election statement addendum. We believe this would require the non-hospice providers to contact the hospice and have a detailed phone

call to obtain and document the information on unrelated conditions, items, services, and medications. For non-hospice providers submitting institutional claims (including inpatient acute care hospitals, SNFs, HHAs, and institutional outpatient providers), typically nurse case managers provide coordination of care for those beneficiaries in these settings who are receiving inpatient services or who are preparing to transition to a post-acute care setting or home. The estimated burden for the registered nurse to contact the hospice to obtain the needed information would be 15 minutes ( $15/60 = 0.25$ ). The average number of hospice beneficiaries receiving services per institutional, non-hospice provider is 15.6 per year, which would mean each institutional, non-hospice provider would have an average of 15.6 communication encounters with hospice. The total number of institutional, non-hospice providers servicing hospice beneficiaries in FY 2024 was 24,068. At \$78.68 per hour for a registered nurse ( $0.25 \times \$78.68$ ) = \$19.67, we estimate the total cost per institutional, non-hospice provider furnishing services to hospice beneficiaries in FY 2027 to be  $(\$19.67 \times 15.6) = \$306.85$  and the annual total cost for all institutional, non-hospice providers in FY 2027 would be  $(\$306.85 \times 24,068) = \$7,385,265.80$ .

For non-institutional, non-hospice providers (including physicians), we also expect that a nurse would contact the hospice to obtain the needed clinical information on unrelated conditions, items, services and drugs. The estimated burden for the registered nurse to contact the hospice to obtain the needed information would be 15 minutes ( $15/60 = 0.25$ ). The average number of hospice beneficiaries receiving services per non-institutional, non-hospice provider is 15.5 per year, which would mean each provider would have an average of 15.5 communication encounters with a hospice. The total number of non-institutional, non-hospice providers servicing hospice beneficiaries in FY 2024 was 135,407. At \$78.68 per hour for a registered nurse ( $0.25 \times \$78.68$ ) = \$19.67, we estimate the total cost per non-institutional, non-hospice provider furnishing services to hospice beneficiaries in FY 2027 to be  $(\$19.67 \times 15.5) = \$304.89$  and the annual total cost for all non-institutional, non-hospice providers in FY 2027 would be  $(\$304.89 \times 135,407) = \$41,284,240.23$ .

For pharmacies dispensing Part D drugs to hospice beneficiaries, the estimated burden for the pharmacy technician at the point of service to contact the hospice to obtain the needed clinical information regarding the drugs deemed by the hospice as unrelated to the terminal illness and related conditions would be 15 minutes ( $15/60 = 0.25$ ). The average number of hospice beneficiaries receiving services per pharmacy dispensing Part D maintenance drugs is 18.6 per year, which would mean each pharmacy would have an average of 18.6 communication encounters with hospice. The total number of pharmacies dispensing Part D maintenance drugs to hospice beneficiaries in FY 2024 was 57,642. At \$45.80 per hour for a pharmacy technician ( $0.25 \times \$45.80$ ) = \$11.45, we estimate the total cost per pharmacy dispensing Part D maintenance drugs to be ( $\$11.45 \times 18.6$ ) = \$212.97 and the annual total cost for all pharmacies dispensing Part D maintenance drugs to be ( $\$212.97 \times 57,642$ ) = \$12,276,016.74. The estimated total annual burden for all non-hospice providers furnishing services, items and medications to hospice beneficiaries in FY 2027 without the availability of the hospice election statement addendum identifying unrelated conditions, items, services and drugs would be \$60,945,522.77 ( $\$7,385,265.80 + \$41,284,240.23 + \$12,276,016.74$ ).

### 3. Burden Reduction Estimate With the Mandatory Election Statement Addendum for Non-Hospice Providers

With the availability of the “Patient Notification of Hospice Covered/Non-Covered Items, Services, and Drugs” election statement addendum, we believe the estimated burden would be reduced for non-hospice providers through a streamlining of the communication and coordination process. Following the same approach used in FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484), we analyzed all Medicare Parts A and B non-hospice claims for beneficiaries under a hospice election in FY 2024. We also examined the Part D claims for drugs provided to hospice beneficiaries under a hospice election. Specifically, we analyzed the following:

- The total number of non-hospice, institutional claims with condition code 07 (to

indicate the services were unrelated to the terminal illness and related conditions).

- The total number of non-hospice, non-institutional claims with “GW” modifier (to indicate the services were unrelated to the terminal illness and related conditions).

- The total number of Part D claims for beneficiaries under a hospice election.

- The average number of hospice beneficiaries per non-hospice provider with institutional claims with condition code 07.

- The average number of hospice beneficiaries per non-hospice provider with non-institutional claims with “GW” modifier.

- The average number of hospice beneficiaries per non-hospice provider with Part D claims.

To calculate the average number of hospice beneficiaries per non-hospice provider, we count the number of unique beneficiaries associated with each non-hospice provider as beneficiaries may receive services by more than one non-hospice provider. This means that some beneficiaries are double-counted. Because we double-counted beneficiaries, we expect that average to be larger than the ratio of unique beneficiaries to unique non-hospice providers. Table 18 summarizes Part A, B and D claims that overlap with hospice episodes in FY 2024.

**TABLE 18: Summary of Part A, B, and D Claims That Overlap With Hospice Episodes, FY 2024**

| Non-Hospice Claim Type          | Number of Hospice Beneficiaries | Number of Non-Hospice Providers | Number of Hospice Providers | Sum of Beneficiaries Across Non-Hospice Providers | Average Number of Hospice Beneficiaries per Non-Hospice Provider (Column 5 /Column 3= Column 6) |
|---------------------------------|---------------------------------|---------------------------------|-----------------------------|---------------------------------------------------|-------------------------------------------------------------------------------------------------|
| Part A & B, Non-Hospice Total   | 744,296                         | 156,721                         | 6,612                       | 2,446,354                                         | 15.6                                                                                            |
| Institutional Claims with 07    | 285,457                         | 24,068                          | 6,238                       | 375,835                                           | 15.6                                                                                            |
| Non-Institutional Lines with GW | 711,483                         | 135,407                         | 6,601                       | 2,101,062                                         | 15.5                                                                                            |
| Part D                          | 806,709                         | 57,642                          | 6,648                       | 1,072,624                                         | 18.6                                                                                            |

Source: FY 2024 Part A/B claims and Part D PDEs data accessed from the CCW on May 9, 2025.

For institutional, non-hospice providers (those who would submit claims for unrelated

services with condition code 07), the estimated burden for the registered nurse to contact the hospice to obtain the needed information would be reduced from 15 minutes in the absence of the addendum to 5 minutes ( $5/60 = 0.0833$ ). The average number of hospice beneficiaries receiving services per institutional non-hospice provider is 15.6 per year. The total number of institutional non-hospice providers servicing hospice beneficiaries in FY 2024 was 24,068. At \$78.68 per hour for a registered nurse ( $0.0833 \times \$78.68$ ) = \$6.55, we estimate the total cost per institutional non-hospice provider in FY 2024 to be ( $\$6.55 \times 15.6$ ) = \$102.18 and the annual total cost for all institutional non-hospice providers in FY 2024 would be ( $\$102.18 \times 24,068$ ) = \$2,459,268.24, an annual decrease in burden by ( $\$7,385,265.80 - \$2,459,268.24$ ) = \$4,925,997.56.

For non-institutional, non-hospice providers (those who would submit claims for unrelated services with modifier GW), the estimated burden for the registered nurse to contact the hospice to obtain the needed information would be reduced to 5 minutes ( $5/60 = 0.0833$ ). The average number of hospice beneficiaries receiving services per non-institutional, non-hospice provider is 15.5 per year. The total number of non-institutional, non-hospice providers servicing hospice beneficiaries in FY 2024 was 135,407. At \$78.68 per hour for a registered nurse ( $0.0833 \times \$78.68$ ) = \$6.55, we estimate the total cost per non-institutional, non-hospice provider in FY 2024 to be ( $\$6.55 \times 15.5$ ) = \$101.53 and the annual total cost for all non-institutional, non-hospice providers in FY 2024 would be ( $\$101.53 \times 135,407$ ) = \$13,747,872.71, an annual decrease in burden by ( $\$41,284,240.23 - \$13,747,872.71$ ) = \$27,536,367.52.

For pharmacies dispensing Part D drugs to hospice beneficiaries, the estimated burden for the pharmacy technician at the point of service to contact the hospice to obtain the needed clinical information regarding the drugs deemed by the hospice as unrelated to the terminal illness and related conditions would be reduced to 5 minutes ( $5/60 = 0.0833$ ). The average number of hospice beneficiaries receiving services from pharmacies dispensing Part D maintenance drugs is 18.6 per year. The total number of pharmacies dispensing Part D

maintenance drugs to hospice beneficiaries in FY 2024 was 57,642. At \$45.80 per hour for a pharmacy technicians ( $0.0833 \times \$45.80$ ) = \$3.82, we estimate the total cost per pharmacy dispensing Part D maintenance drugs to be ( $\$3.82 \times 18.6$ ) = \$71.05 and the annual total cost for all pharmacies dispensing Part D maintenance drugs to be ( $\$71.05 \times 57,642$ ) = \$4,095,464.10, an annual decrease in burden by ( $\$12,276,016.74 - \$4,095,464.10$ ) = \$8,180,552.64.

The estimated total annual burden for all non-hospice providers furnishing services, items, and drugs to hospice beneficiaries in FY 2024 with the availability of the hospice election statement addendum identifying unrelated conditions, items, services, and medication would be \$20,302,605.05 ( $\$2,459,268.24 + \$13,747,872.71 + \$4,095,464.10$ ) for an overall burden reduction of ( $\$60,945,522.77 - \$20,302,605.05$ ) = \$40,642,917.72. The total reduction in burden for all institutional, non-institutional, and Part D pharmacy non-hospice providers is summarized in Table 19.

**TABLE 19: FY 2027 Estimated Total Overall Burden Reduction for Non-Hospice Providers Using Election Statement Addendum**

| Non-Hospice Claims                                      | Estimated Burden without Addendum | Estimated Burden with Addendum | Estimated Burden Reduction for Non-Hospice Providers with Use of the Addendum* |
|---------------------------------------------------------|-----------------------------------|--------------------------------|--------------------------------------------------------------------------------|
| Institutional Claims with Condition Code 07             | \$7,385,265.80                    | \$2,459,268.24                 | \$4,925,997.56                                                                 |
| Non-Institutional Claims with GW Modifier               | \$41,284,240.23                   | \$13,747,872.71                | \$27,536,367.52                                                                |
| Part D Maintenance Drugs                                | \$12,276,016.74                   | \$4,095,464.10                 | \$8,180,552.64                                                                 |
|                                                         |                                   |                                |                                                                                |
| <b>Total</b>                                            | \$60,945,522.77                   | \$20,302,605.05                |                                                                                |
| <b>Total Burden Reduction for Non-Hospice Providers</b> |                                   |                                | \$40,642,917.72                                                                |

**\*Note:** Estimated burden reduction for non-hospice providers with use of the addendum=burden without addendum (column 2) minus burden with addendum (column 3).

The use of the “Patient Notification of Hospice Non-Covered Items, Services, and Drugs” election statement addendum would result in an estimated, annual net reduction in burden of \$20,770,053.72 ( $\$40,642,917.72 - \$19,872,864.00$ ) in FY 2027. Table 20 summarizes the FY 2027 estimated total burden reduction.

**TABLE 20: FY 2027 Estimated Total Provider Burden Reduction Using Election Statement Addendum**

| <b>Item</b>                                                      | <b>Amount</b>          |
|------------------------------------------------------------------|------------------------|
| FY 2027 Estimated Hospice Burden for Election Statement Addendum | \$19,872,864.00        |
| FY 2027 Estimated Non-Hospice Provider Burden Reduction          | \$40,642,917.72        |
|                                                                  |                        |
| <b>FY 2027 Estimated Annual Net Reduction in Burden</b>          | <b>\$20,770,053.72</b> |

Additionally, the use of the “Patient Notification of Hospice Non-Covered Items, Services, and Drugs” election statement addendum would result in an estimated, annual net reduction in burden of \$20,770,053.72 (\$40,642,917.72 – \$19,872,864.00) in FY 2027, compared to an estimated annual net reduction in burden of \$5,228,457.00 (\$16,505,172.00 minus \$11,276,715.00) in FY 2020, representing an increase in the estimated net burden reduction of \$15,541,596.72 between FY 2020 and FY 2027. Table 21 summarizes the difference in the estimated total provider burden between FY 2020 and FY 2027 resulting from provision of the election statement addendum.

**TABLE 21: Estimated Total Provider Burden Between FY 2020 and FY 2027 Using the Election Statement Addendum**

| <b>Item</b>                                              | <b>FY 2020 Amount</b> | <b>FY 2027 Amount</b>   | <b>Difference in the Estimated Total Provider Burden Between FY 2020 and FY 2027 with the Use of the Addendum *</b> |
|----------------------------------------------------------|-----------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------|
| Estimated Hospice Burden for Election Statement Addendum | \$11,276,715          | \$19,872,864.00         | \$8,596,149                                                                                                         |
| Estimated Non-Hospice Provider Burden                    | \$16,505,172          | -\$40,642,917.72        | -\$24,137,745.72                                                                                                    |
|                                                          |                       |                         |                                                                                                                     |
| <b>Estimated Annual Net Reduction in Burden</b>          | <b>\$5,228,457</b>    | <b>-\$20,770,053.72</b> | <b>-\$15,541,596.72</b>                                                                                             |

**\*Note:** Difference in the estimated total provider burden reduction between FY 2020 and FY 2027 with the use of the addendum=FY 2027 estimated hospice and non-hospice burden for election statement addendum (column 3) minus FY 2020 estimated hospice and non-hospice burden for election statement addendum (column 2).

We received public comments on our burden estimates associated with the election statement addendum. Refer to section III.C.2. of this final rule for a summary of the comments

we received and our responses.

## V. Regulatory Impact Analysis (RIA)

### A. *Statement of Need*

#### 1. Hospice Payment

This final rule meets the requirements of our regulations at § 418.306(c) and (d), which require annual issuance, in the **Federal Register**, of the Hospice Wage Index based on the most current available CMS hospital wage data, including any changes to the definitions of Core Based Statistical Areas (CBSAs) or previously used Metropolitan Statistical Areas (MSAs), as well as any changes to the methodology for determining the per diem payment rates. This final rule updates the payment rates for each of the categories of hospice care, described in § 418.302(b), for FY 2027 as required under section 1814(i)(1)(C)(ii)(VII) of the Act. The payment rate updates are subject to changes in economy-wide productivity as specified in section 1886(b)(3)(B)(xi)(II) of the Act.

#### 2. Hospice Election Statement Addendum

This final rule will make the hospice election statement addendum mandatory for all hospice elections. This will require hospices to furnish the hospice election statement addendum within the first 5 days of a hospice election (that is, within the first 5 days of the effective date of the hospice election), and any updates to the addendum within 3 days of changes to the plan of care that impact the addendum determinations, in writing, to the individual (or representative), and to make the addendum available for non-hospice providers and Medicare contractors. This change will become effective for hospice elections on and after October 1, 2026. The election statement addendum will add no additional burden for communicating with non-hospice providers, as this decision-making process has been a long-standing CoP requirement, as described in the preamble of this final rule. As reviewed in section IV.B.1. of this final rule, hospices already are required to review, determine, and document information on unrelated conditions per the hospice regulations and CoPs. Additionally, our previous burden estimate, completed in FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484),

assumed that an addendum would be requested by every hospice beneficiary (or representative) receiving non-hospice services. While the number of hospice elections, and therefore the number of election statement addendums, have increased since our last burden estimate was completed, we continue to believe the actual burden would be less as hospices are already required to be comprehensive in their approach to covered services. As such, there will be hospices that will spend less time, than estimated, to complete the addendum as the hospice will be providing all items, services, and drugs. However, we believe that making the election statement addendum mandatory will reduce burden for non-hospice providers, including institutional, non-institutional and pharmacy providers because less time will be spent trying to obtain needed information for treatment decisions and accurate claims submissions.

### 3. Quality Reporting Program

This final rule announces that CMS will add an icon to the Medicare.gov Compare Tool to identify hospices that fail to meet the reporting submission requirements for the Annual Payment Update (APU). These requirements require hospices to submit 90 percent of HOPE assessments within 30 days of a patient's admission or discharge date. This new icon will allow consumers to identify hospices that may lack sufficient data to accurately gauge quality and provide another incentive for hospices to meet the 90 percent threshold.

#### *B. Overall Impact*

We have examined the impacts of this rule as required by Executive Order 12866, "Regulatory Planning and Review"; Executive Order 13132, "Federalism"; Executive Order 13563, "Improving Regulation and Regulatory Review"; Executive Order 14192, "Unleashing Prosperity Through Deregulation"; the Regulatory Flexibility Act (RFA) (Pub. L. 96-354); section 1102(b) of the Social Security Act; section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory

approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; and distributive impacts). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President’s priorities.

Based on our estimates, OMB’s Office of Information and Regulatory Affairs has determined this rulemaking is significant per section 3(f)(1) of E.O. 12866. Accordingly, we have prepared a regulatory impact analysis that presents the costs and benefits of the rulemaking to the best of our ability. In accordance with the provisions of Executive Order 12866, this regulation was reviewed by OMB.

#### 1. Hospice Payment

We estimate that the aggregate impact of the payment provisions in this final rule will result in an estimated increase of \$755 million in payments to hospices, resulting from the final hospice payment update percentage of 2.3 percent for FY 2027. The impact analysis of this final rule represents the projected effects of the changes in hospice payments from FY 2026 to FY 2027. Using the most recent complete data available at the time of rulemaking, in this case FY 2025 hospice claims data as of May 12, 2026, we simulate total payments using the final FY 2027 wage index (pre-floor, pre-reclassified hospital wage index with the hospice floor, and the 5 percent cap on wage index decreases) and FY 2026 payment rates and compare it to our simulation of total payments using FY 2025 utilization claims data, the final FY 2026 Hospice Wage Index (pre-floor, pre-reclassified hospital wage index with hospice floor, and the 5 percent

cap on wage index decreases) and FY 2026 payment rates. By dividing payments for each level of care (RHC days 1 through 60, RHC days 61+, CHC, IRC, and GIP) using the FY 2026 wage index and payment rates for each level of care by the FY 2027 wage index and FY 2026 payment rates, we obtain a wage index standardization factor for each level of care. We apply the wage index standardization factors so that the aggregate simulated payments do not increase or decrease due to changes in the wage index.

Certain events may limit the scope or accuracy of our impact analysis, because such an analysis is susceptible to forecasting errors due to other changes in the forecasted impact time-period. The nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon hospices.

## 2. Hospice Election Statement Addendum

As a result of this election statement addendum, we estimate that this rule will generate \$20.8 million in annualized cost savings to providers, beginning in FY 2027. The estimated burden reduction for this requirement is detailed in section IV.C. of this final rule and the total annual estimated reduction is included in Table 20.

## 3. Hospice Quality Reporting Program

This final rule will add an icon to the Medicare.gov Compare Tool for hospices. There are no associated economic impacts for hospices.

### *C. Detailed Economic Analysis*

#### 1. Hospice Payment Update for FY 2027

The FY 2027 hospice payment impacts appear in Table 22. We tabulate the resulting payments according to the classifications (for example, provider type, geographic region, facility size) and compare the difference between current and future payments to determine the overall impact. The first column shows the breakdown of all hospices by provider type and control (non-profit, for-profit, government, other), facility location, and facility size. The second column

shows the number of hospices in each of the categories in the first column. The third column shows the effect of using the FY 2027 updated wage index data with a 5 percent cap on wage index decreases. The aggregate impact of the change in column three is zero percent, due to the hospice wage index standardization factors. However, there are distributional effects of using the FY 2027 hospice wage index. The fourth column shows the effect of the hospice payment update percentage as mandated by section 1814(i)(1)(C) of the Act and is consistent for all providers. The hospice payment update percentage of 2.3 percent is based on the final 3.2 percent inpatient hospital market basket percentage increase reduced by a final 0.9 percentage point productivity adjustment. The fifth column shows the total effect of the updated wage data and the hospice payment update percentage on FY 2027 hospice payments. As illustrated in Table 22, the combined effects vary by specific types of providers and by location. We note that simulated payments are based on utilization in FY 2025 as seen on Medicare hospice claims (accessed from the Chronic Conditions Warehouse (CCW) on May 12, 2026) and only include payments related to the level of care and do not include payments related to the service intensity add-on.

As illustrated in Table 22, the combined effects vary by specific types of providers and by location.

**TABLE 22: Impact to Hospices for FY 2027**

| Hospice Subgroup                | Hospices | FY 2027 Updated Wage Data | FY 2027 Hospice Payment Update (%) | Overall Total Impact for FY 2027 |
|---------------------------------|----------|---------------------------|------------------------------------|----------------------------------|
| <b>All Hospices</b>             | 6,673    | 0.0%                      | 2.3%                               | 2.3%                             |
| <b>Hospice Type and Control</b> |          |                           |                                    |                                  |
| Freestanding/Non-Profit         | 782      | 0.0%                      | 2.3%                               | 2.3%                             |
| Freestanding/For-Profit         | 4,856    | 0.0%                      | 2.3%                               | 2.3%                             |
| Freestanding/Government         | 34       | 0.7%                      | 2.3%                               | 3.0%                             |
| Freestanding/Other              | 0        | 0.0%                      | 2.3%                               | 2.3%                             |
| Facility/HHA Based/Non-Profit   | 258      | 0.0%                      | 2.3%                               | 2.3%                             |
| Facility/HHA Based/For-Profit   | 3        | 1.2%                      | 2.3%                               | 3.5%                             |
| Facility/HHA Based/Government   | 94       | 1.0%                      | 2.3%                               | 3.3%                             |

| Hospice Subgroup                                                 | Hospices | FY 2027 Updated Wage Data | FY 2027 Hospice Payment Update (%) | Overall Total Impact for FY 2027 |
|------------------------------------------------------------------|----------|---------------------------|------------------------------------|----------------------------------|
| Facility/HHA Based/Other                                         | 0        | 0.0%                      | 2.3%                               | 2.3%                             |
| Subtotal: Freestanding Facility Type                             | 5,672    | 0.0%                      | 2.3%                               | 2.3%                             |
| Subtotal: Facility/HHA Based Facility Type                       | 355      | 0.2%                      | 2.3%                               | 2.5%                             |
| Subtotal: Non-Profit                                             | 1,050    | 0.0%                      | 2.3%                               | 2.3%                             |
| Subtotal: For Profit                                             | 5,172    | 0.0%                      | 2.3%                               | 2.3%                             |
| Subtotal: Government                                             | 128      | 0.9%                      | 2.3%                               | 3.2%                             |
| Subtotal: Other                                                  | 6        | 0.7%                      | 2.3%                               | 3.0%                             |
| <b>Hospice Type and Control: Rural</b>                           |          |                           |                                    |                                  |
| Freestanding/Non-Profit                                          | 203      | 0.9%                      | 2.3%                               | 3.2%                             |
| Freestanding/For-Profit                                          | 408      | 0.4%                      | 2.3%                               | 2.7%                             |
| Freestanding/Government                                          | 22       | 0.6%                      | 2.3%                               | 2.9%                             |
| Freestanding/Other                                               | 0        | 0.0%                      | 2.3%                               | 2.3%                             |
| Facility/HHA Based/Non-Profit                                    | 108      | 0.7%                      | 2.3%                               | 3.0%                             |
| Facility/HHA Based/For-Profit                                    | 0        | 0.0%                      | 2.3%                               | 2.3%                             |
| Facility/HHA Based/Government                                    | 68       | 1.1%                      | 2.3%                               | 3.4%                             |
| Facility/HHA Based/Other                                         | 0        | 0.0%                      | 2.3%                               | 2.3%                             |
| <b>Hospice Type and Control: Urban</b>                           |          |                           |                                    |                                  |
| Freestanding/Non-Profit                                          | 579      | -0.1%                     | 2.3%                               | 2.2%                             |
| Freestanding/For-Profit                                          | 4,448    | -0.1%                     | 2.3%                               | 2.2%                             |
| Freestanding/Government                                          | 12       | 0.7%                      | 2.3%                               | 3.0%                             |
| Freestanding/Other                                               | 0        | 0.0%                      | 2.3%                               | 2.3%                             |
| Facility/HHA Based/Non-Profit                                    | 150      | -0.1%                     | 2.3%                               | 2.2%                             |
| Facility/HHA Based/For-Profit                                    | 3        | 1.2%                      | 2.3%                               | 3.5%                             |
| Facility/HHA Based/Government                                    | 26       | 1.0%                      | 2.3%                               | 3.3%                             |
| Facility/HHA Based/Other                                         | 0        | 0.0%                      | 2.3%                               | 2.3%                             |
| <b>Hospice Location: Urban or Rural</b>                          |          |                           |                                    |                                  |
| Rural                                                            | 857      | 0.6%                      | 2.3%                               | 2.9%                             |
| Urban                                                            | 5,816    | -0.1%                     | 2.3%                               | 2.2%                             |
| <b>Hospice Location: Region of the Country (Census Division)</b> |          |                           |                                    |                                  |
| New England                                                      | 162      | 0.8%                      | 2.3%                               | 3.1%                             |
| Middle Atlantic                                                  | 282      | 0.6%                      | 2.3%                               | 2.9%                             |
| South Atlantic                                                   | 653      | -0.1%                     | 2.3%                               | 2.2%                             |
| East North Central                                               | 661      | -0.2%                     | 2.3%                               | 2.1%                             |
| East South Central                                               | 252      | -0.3%                     | 2.3%                               | 2.0%                             |
| West North Central                                               | 446      | 0.4%                      | 2.3%                               | 2.7%                             |
| West South Central                                               | 1,302    | -0.4%                     | 2.3%                               | 1.9%                             |

| Hospice Subgroup               | Hospices | FY 2027 Updated Wage Data | FY 2027 Hospice Payment Update (%) | Overall Total Impact for FY 2027 |
|--------------------------------|----------|---------------------------|------------------------------------|----------------------------------|
| Mountain                       | 697      | -0.2%                     | 2.3%                               | 2.1%                             |
| Pacific                        | 2,137    | 0.2%                      | 2.3%                               | 2.5%                             |
| Outlying                       | 81       | 1.1%                      | 2.3%                               | 3.4%                             |
| <b>Hospice Size</b>            |          |                           |                                    |                                  |
| 0 - 3,499 RHC Days (Small)     | 1,611    | 0.2%                      | 2.3%                               | 2.5%                             |
| 3,500-19,999 RHC Days (Medium) | 2,984    | 0.2%                      | 2.3%                               | 2.5%                             |
| 20,000+ RHC Days (Large)       | 2,078    | 0.0%                      | 2.3%                               | 2.3%                             |

**Source:** FY 2025 hospice claims data from CCW accessed on May 12, 2026.

**Note:** The overall total impact reflects the addition of the individual impacts, which includes the wage index impact as well as the hospice payment update of 2.3 percent.

Due to missing Provider of Services file and Cost Report information (from which hospice characteristics are obtained), some subcategories in the impact tables have fewer agencies represented than the overall total (of 6,673). Subtypes involving ownership only add up to 6,356 while subtypes involving facility type only add up to 6,027.

**Region Key:**

New England=Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Middle Atlantic=Pennsylvania, New Jersey, New York

South Atlantic=Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia

East North Central=Illinois, Indiana, Michigan, Ohio, Wisconsin

East South Central=Alabama, Kentucky, Mississippi, Tennessee

West North Central=Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota

West South Central=Arkansas, Louisiana, Oklahoma, Texas

Mountain=Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming

Pacific=Alaska, California, Hawaii, Oregon, Washington

Outlying=Guam, Puerto Rico, Virgin Islands

We received a comment on the detailed economic analysis and impact table. A summary of this comment and our response follows:

*Comment:* A commenter stated that they disagree with CMS’s characterization of the proposed FY 2027 payment provisions as a meaningful \$785 million increase. This commenter expressed concern that while significant at the national level, the proposed 2.4 percent update does not reflect the financial realities providers are facing; such as increases in labor costs driven by workforce shortages, along with ongoing inflationary pressures related to transportation, medications, medical supplies, contracted services, and compliance requirements.

*Response:* We acknowledge and appreciate the commenter’s concerns regarding the adequacy of the proposed FY 2027 hospice payment update and acknowledge the cost pressures

individual providers may be experiencing. We recognize that hospice care is a labor-intensive, community-based benefit and that providers face real and ongoing financial challenges in the current economic environment. We reiterate that we are required to update hospice payments pursuant to section 1814(i)(1)(C)(ii)(VII) of the Act which requires CMS to update hospice PPS payments by the Inpatient Hospital PPS (IPPS) market basket percentage increase (as defined in section 1886(b)(3)(B)(iii) of the Act) reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. We do not have discretionary authority to deviate from this statutory formula. Furthermore, we estimate that the aggregate impact of the payment provisions in this final rule will result in an estimated increase of \$755 million in payments to hospices, resulting from the final hospice payment update percentage of 2.3 percent for FY 2027. The impact analysis of this final rule represents the projected effects of the changes in hospice payments from FY 2026 to FY 2027 using the most recent complete data available at the time of rulemaking, in this case FY 2025 hospice claims data as of May 12, 2026. Certain events may limit the scope or accuracy of our impact analysis, because such an analysis is susceptible to forecasting errors due to other changes in the forecasted impact time- period. The nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon hospices.

#### *D. Regulatory Review Cost Estimation*

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this final rule, we should estimate the cost associated with the regulatory review. Due to the uncertainty involved with accurately quantifying the number of entities that will review the rule, we assume that the total number of unique commenters on this year's proposed rule will be the number of reviewers of this final rule. However, we acknowledge that this assumption may understate or overstate the costs of reviewing this final rule. It is possible that not all commenters reviewed this year's proposed rule in detail, and it is also possible that

some reviewers chose not to comment on the proposed rule. Despite these limitations, we believe that the number of commenters on this year's proposed rule is a fair estimate of the number of reviewers of this final rule. We welcomed any public comments on the approach in estimating the number of entities that would review the proposed rule. We did not receive any public comments specific to our solicitation.

We also recognize that different types of entities are in many cases affected by mutually exclusive sections of this final rule, and therefore for the purposes of our estimate we assume that each reviewer reads approximately 50 percent of the rule. We sought public comments on this assumption. We did not receive any public comments specific to our solicitation.

Using the May 2024 National median hourly wage rate (doubled for benefits and overhead) for medical and health service managers (Code 11-9111); we estimate that the cost of reviewing this rule is \$113.42 per hour, including overhead and fringe benefits (<https://www.bls.gov/oes/tables.htm>). Assuming an average reading speed we estimate that it will take approximately 1.76 hours for staff to review half of this final rule. For each hospice that reviews the rule, the estimated cost is \$199.62 (1.76 hours  $\times$  \$113.42). Therefore, we estimate that the total cost of reviewing this regulation is approximately \$43,118 (\$199.62  $\times$  216 reviewers; which is based on the number of comments received on the proposed rule, as described previously).

## *E. Alternatives Considered*

### *1. Hospice Payment*

Since the hospice payment update percentage is determined based on statutory requirements, we did not consider alternatives to updating the hospice payment rates by the final hospice payment update percentage. The final 2.3 percent hospice payment update percentage for FY 2027 is based on a final 3.2 percent inpatient hospital market basket percentage increase for FY 2027, reduced by a final 0.9 percentage point productivity adjustment. Payment rates since FY 2002 have been updated according to section 1814(i)(1)(C)(ii)(VII) of the Act, which states

that the update to the payment rates for subsequent years must be the market basket percentage increase for that FY. Section 3401(g) of the Affordable Care Act also mandates that, starting with FY 2013 (and in subsequent years), the hospice payment update percentage will be annually reduced by changes in economy-wide productivity as specified in section 1886(b)(3)(B)(xi)(II) of the Act. For FY 2027, since the hospice payment update percentage is determined based on statutory requirements at section 1814(i)(1)(C) of the Act, we did not consider alternatives for the hospice payment update percentage.

## 2. Hospice Election Statement Addendum

CMS considered not finalizing the requirement to make the election statement addendum mandatory but rather keep the existing policy where the addendum is only required when requested by the beneficiary, their representative, non-hospice providers, or the Medicare administrative contractors. However, as described in section III.C. of this final rule, the intent of the election statement addendum is to increase coverage transparency for beneficiaries. We believe that requiring the provision of this addendum only when requested does not fulfill this intent and that all beneficiaries deciding to elect hospice care in lieu of curative care should have all the information they need to make an informed election. We also stated our concerns that the continued increase of non-hospice spending during a hospice election may signal that beneficiaries are not being made aware of hospice coverage responsibility and this may result in increased beneficiary cost sharing and fragmented care which is counter to the comprehensive and holistic nature of hospice care.

## 3. Quality Reporting Program

CMS considered proposing an icon that would indicate if a hospice does not meet the submission requirements for HOPE, CAHPS, and claims. However, since claims are required for payment, there is high compliance, and, as many hospices are exempt from CAHPS due to size limitations, CAHPS submissions would be excluded for a large number of hospices so both CAHPS and claims were omitted. CMS also proposed an icon that will indicate if a hospice has

met the submission requirements, however CMS is trying to induce the non-submitting hospices to change behavior and believe a negative icon will be more effective than a positive icon. Additionally, creating a positive icon will also cause, at times, hospices with poor quality indicators to receive this icon and possibly give mixed messages to the consumer as to whether the hospice provides good quality of care.

CMS considered proposing a star rating, similar to those seen in other care settings on the Medicare.gov Compare Tool. However, this change will require the need for more public feedback and additional analyses to create a star rating that will accurately reflect the care a hospice is providing. There was also a desire to not add something to the Compare Tool that may interfere with the changes that may be made by the Hospice Special Focus Program (SFP).

#### *F. Accounting Statement and Table*

Consistent with OMB Circular A-4 (available at <https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf>), we have prepared an accounting statement in Table 23 showing the classification of the expenditures associated with the provisions of this final rule. Table 23 provides our best estimate of the possible changes in Medicare payments under the hospice benefit as a result of the policies in this final rule. This estimate is based on the data for 6,673 hospices in our impact analysis file, which was constructed using FY 2025 claims (accessed from the CCW on May 12, 2026). All expenditures are classified as transfers to hospices.

**TABLE 23: Accounting Statement  
Classification of Estimated Transfers to Medicare Hospices**

|                                                              | <b>HOSPICE PAYMENT UPDATE (FROM FY 2026 TO FY 2027)</b> |
|--------------------------------------------------------------|---------------------------------------------------------|
| <b>Category</b>                                              | <b>Transfers</b>                                        |
| Annualized Monetized Transfers                               | \$755 million*                                          |
| From Whom to Whom?                                           | Federal Government to Medicare Hospices                 |
|                                                              |                                                         |
| <b>HOSPICE ELECTION STATEMENT ADDENDUM (FY 2027)</b>         |                                                         |
| <b>Category</b>                                              | <b>Cost</b>                                             |
| Net Burden for Completion of the Election Statement Addendum | -\$15.5 million**                                       |
|                                                              |                                                         |

\*The increase of \$755 million in transfer payments is a result of the final 2.3 percent hospice payment update compared to payments in FY 2026.

\*\*The estimated annual net provider burden reduction of \$15.5 million is a result of the difference between the estimated hospice burden for completion of the election statement addendum and the estimated non-hospice provider burden reduction for obtaining the election statement addendum.

### *G. Regulatory Flexibility Act (RFA)*

The RFA requires agencies to analyze options for regulatory relief of small entities if a rule has a significant economic impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small jurisdictions. We consider all hospices as small entities as that term is used in the RFA. The North American Industry Classification System (NAICS) was adopted in 1997 and is the current standard used by the Federal statistical agencies related to the U.S. business economy. There is no NAICS code specific to hospice services. Therefore, we utilized the NAICS U.S. industry title “Home Health Care Services” and corresponding NAICS code 621610 in determining impacts for small entities. The NAICS code 621610 has a size standard of \$19 million.<sup>26</sup> Table 24 shows the number of firms, revenue, and estimated impact per home health care service category. Table 25 shows the number of nonemployer establishments, total, and average revenue per nonemployer establishment.

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<sup>26</sup> [https://www.sba.gov/sites/sbagov/files/2023-03/Table%20of%20Size%20Standards\\_Effective%20March%2017%2C%202023%20%281%29%20%281%29\\_0.pdf](https://www.sba.gov/sites/sbagov/files/2023-03/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%281%29%20%281%29_0.pdf).

**TABLE 24: Number Of Firms, Revenue, and Average Revenue Per Firm of Home Health Care Services for NAICS Code 621610**

| NAICS  | NAICS Description         | Enterprise Size (\$1,000) | Number of Firms | Receipts (\$1,000) | Average Receipts Per Firm (\$1,000) |
|--------|---------------------------|---------------------------|-----------------|--------------------|-------------------------------------|
| 621610 | Home Health Care Services | <100                      | 6,361           | 232,967            | 37                                  |
| 621610 | Home Health Care Services | 100-499                   | 7,099           | 1,869,713          | 263                                 |
| 621610 | Home Health Care Services | 500-999                   | 3,866           | 2,829,374          | 732                                 |
| 621610 | Home Health Care Services | 1,000-2,499               | 5,218           | 8,370,496          | 1,604                               |
| 621610 | Home Health Care Services | 2,500-4,999               | 2,560           | 8,833,076          | 3,450                               |
| 621610 | Home Health Care Services | 5,000-7,499               | 885             | 5,275,636          | 5,961                               |
| 621610 | Home Health Care Services | 7,500-9,999               | 450             | 3,789,016          | 8,420                               |
| 621610 | Home Health Care Services | 10,000-14,999             | 466             | 5,256,982          | 11,281                              |
| 621610 | Home Health Care Services | 15,000-19,999             | 235             | 3,621,448          | 15,410                              |
| 621610 | Home Health Care Services | >20,000                   | 1,058           | 73,271,709         | 69,255                              |
| 621610 | Home Health Care Services | Total                     | 28,198          | 113,350,417        | 4,020                               |

**Source:** Data obtained from United States Census Bureau table “us\_6digitnaics\_rcptsize\_2022” (SOURCE: 2022 SUSB Annual Data Tables by Establishment Industry) Release Date: 4/10/2025: [https://www2.census.gov/programs-surveys/susb/tables/2022/us\\_6digitnaics\\_rcptsize\\_2022.xlsx](https://www2.census.gov/programs-surveys/susb/tables/2022/us_6digitnaics_rcptsize_2022.xlsx).

**Notes:** The ‘Average Receipts Per Firm’ column is calculated as the Receipts (\$1,000)/Number of firms. The ‘Total’ row represents all the home health care services firms under NAICS 621610. Overall receipts (revenue) for the 28,198 firms (NAICS 621610) are approximately \$113 billion.

**TABLE 25: NUMBER, TOTAL, AND AVERAGE REVENUE OF NONEMPLOYER ESTABLISHMENTS OF HOME HEALTH CARE SERVICES BY NAICS CODE 621610**

| NAICS  | NAICS Description         | Establishments With Sales, Value of Shipments, or Revenue Size of Establishments Code | Number of Nonemployer Establishments | Total Nonemployer Sales, Value of Shipments, Or Revenue (\$1,000) | Estimated Average Revenue (\$1,000) |
|--------|---------------------------|---------------------------------------------------------------------------------------|--------------------------------------|-------------------------------------------------------------------|-------------------------------------|
| 621610 | Home Health Care Services | All Establishments                                                                    | 412,098                              | 9,525,542                                                         | <b>\$23.115</b>                     |

**Source:** Data obtained from United States Census Bureau table title “All Sectors: Nonemployer Statistics by Legal Form of Organization and Receipts Size Class for the U.S., States, and Selected Geographies: 2023” (SOURCE: U.S. Census Bureau, 2023 Economic Surveys) Release Date: 05/15/2025: <https://data.census.gov/table?q=NONEMP2023.NS2300NONEMP&codeset=naics~62161>.

**Notes:** Estimated average revenue is calculated as Total Nonemployer Sales, Value of Shipments, or Revenue (\$1,000)/Number of Nonemployer Establishments. For the total, this is the average estimated impact across all number of firms.

The Department of Health and Human Services’ practice in interpreting the RFA is to consider effects economically “significant” only if greater than 5 percent of providers reach a threshold of 3 to 5 percent or more of total revenue or total costs. The majority of hospice visits are Medicare paid visits,<sup>27</sup> and therefore the majority of hospice agency revenue consists of

<sup>27</sup> The Medicare Payment Advisory Commission has observed that in 2022 “Medicare accounts for about 90 percent of hospice days[.]” Medicare Payment Advisory Comm’n, March 2024 Report to Congress, Ch. 9, at 22 (March 15, 2024).

Medicare payments. Based on our analysis, we conclude that the policies finalized in this rule will not result in an estimated total impact of 3 to 5 percent or more on Medicare revenue for greater than 5 percent of hospices. Therefore, the Secretary has determined that this hospice final rule will not have significant economic impact on a substantial number of small entities. Table 22 details the total percentage payment increase by number of 30-day periods and impact by facility type, size, and location. As shown in Table 22, when examining the distribution of projected payment impacts across individual agency groups, a marginal share of hospices are projected to receive a payment increase of 3 percent or more. For example, only agencies in the New England (162 hospices, 3.1 percent) and outlying (81 hospices, 3.4 percent) census regions are estimated to receive an increase over 3.0 percent. Hospices in these regions represent roughly 3.6 percent of all 6,673 hospices.

Additionally, we estimate that the net impact of the policies in this rule is 2.3 percent or approximately \$755 million in increased revenue to hospices in FY 2027. The 2.3 percent increase in expenditures when comparing FY 2026 payments to estimated FY 2027 payments is reflected in the last column of the first row in Table 22 and is driven solely by the impact of the final hospice payment update percentage reflected in the fourth column of the impact table. In addition, hospices with less than 3,500 RHC days will experience a higher estimated increase (2.5 percent), compared to hospices with greater than 20,000 RHC days (2.3 percent) due to the updated wage index. We estimate that in FY 2027, hospices in urban areas will experience, on average, a 2.2 percent increase in estimated payments compared to FY 2026; while hospices in rural areas will experience, on average, a 2.9 percent increase in estimated payments compared to FY 2026. Hospices providing services in the Outlying region will experience the largest estimated increases in payments of 3.4 percent. Further detail by hospice type and location is presented in Table 22.

The statement of need for the various proposed policies in this rule is discussed in section V.A. of the RIA.

Additionally, the alternatives considered for the various finalized policies in this rule are discussed in section V.E. of the RIA. We considered potential alternatives for the policies finalized in this rule, including the hospice payment update percentage and the hospice election statement addendum. Because the hospice payment update percentage is established annually in accordance with the statutory requirements of section 1814(i)(1)(C) of the Act, we did not evaluate alternative approaches for this provision. Similarly, we did not consider alternatives for the regulatory text revisions, as these changes either conform to policies already codified in regulation or are mandated by the Consolidated Appropriations Act, 2026. For the hospice election statement addendum, the proposed policy is expected to generate savings for all hospices, including small entities. We also considered an alternative in which the hospice statement addendum would be optional rather than mandatory. However, this approach would not fulfill the intended objective, as described in Section III.C. of this final rule, of enhancing transparency for beneficiaries seeking to elect the hospice benefit. We solicited comments on our proposed cost analysis but did not receive any comments.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of an MSA and has fewer than 100 beds. As this rule will only affect hospices, the Secretary has determined that this rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

#### *H. Unfunded Mandates Reform Act (UMRA)*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2026, that threshold is approximately \$193 million. This rule will not have an unfunded effect on state,

local, or tribal governments, in the aggregate, or on the private sector that exceeds this threshold in any 1 year.

### *I. Federalism*

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this rule under these criteria of Executive Order 13132 and have determined that it will not impose substantial direct costs on State or local governments.

### *J. E.O. 14192, “Unleashing Prosperity Through Deregulation”*

Executive Order 14192, entitled “Unleashing Prosperity Through Deregulation” was issued on January 31, 2025, and requires that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” Therefore, this final rule is expected to be an E.O. 14192 deregulatory action. We estimate that this final rule will generate \$12.69 million in annualized cost savings at a 7 percent discount rate, discounted to relative to 2024, over a perpetual time horizon.

### *K. Conclusion*

We estimate that aggregate payments to hospices in FY 2027 will increase by \$755 million as a result of the final 2.3 percent hospice payment update, compared to payments in FY 2026. We estimate that in FY 2027, hospices in urban areas will experience, on average, a 2.2 percent increase in estimated payments compared to FY 2026; while hospices in rural areas will experience, on average, a 2.9 percent increase in estimated payments compared to FY 2026. Hospices providing services in the Outlying region will experience the largest estimated increases in payments of 3.4 percent. Hospices serving patients in the West South Central region will experience, on average, the lowest estimated increase of 1.9 percent in FY 2027 payments.

Mehmet Oz Administrator of the Centers for Medicare & Medicaid Services, approved  
this document on July 28, 2026.

## **List of Subjects in 42 CFR Part 418**

Health facilities, Hospice care, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 418 as set forth below:

## **PART 418--HOSPICE CARE**

1. The authority citation for part 418 continues to read as follows:

**Authority:** 42 U.S.C. 1302 and 1395hh.

2. Section 418.22 is amended by revising paragraph (a)(4)(ii) to read as follows:

### **§ 418.22 Certification of terminal illness.**

(a) \* \* \*

(4) \* \* \*

(ii) During a Public Health Emergency, as defined in §400.200 of this chapter, or through December 31, 2027, whichever is later, if the face-to-face encounter conducted by a hospice physician or hospice nurse practitioner is for the sole purpose of hospice recertification, such encounter may occur via telecommunications technology and is considered an administrative expense. Telecommunications technology means the use of interactive multimedia communications equipment that includes, at a minimum, the use of audio and video equipment permitting two-way, real-time interactive communication between the patient and the distant site hospice physician or hospice nurse practitioner. For face-to-face encounters occurring on or after January 1, 2027, hospices must report any such encounters occurring via telecommunications technology on the claim, in accordance with guidance issued by CMS. Beginning January 31, 2026, telehealth may not be used for the face-to-face recertification encounter if any of the following conditions apply:

(A) The hospice patient is located in an area subject to a hospice enrollment moratorium under section 1866(j)(7) of the Act;

(B) The patient is receiving care from a hospice provider that is subject to enhanced oversight pursuant to section 1866(j)(3) of the Act; or

(C) The face-to-face encounter is conducted by a hospice physician or nurse practitioner who is not enrolled in Medicare under section 1866(j) and is not an opt-out physician or practitioner (as defined in section 1802(b)(6)(D) of the Act.

\* \* \* \*

3. Section 418.24 is amended by revising paragraphs (b)(6), (c) introductory text, (c)(9) and (10), and (d) to read as follows:

**§ 418.24 Election of hospice care.**

(b) \* \* \*

(6) For Hospice elections beginning on or after October 1, 2026, the hospice must provide the individual (or representative) an election statement addendum, as set forth in paragraphs (c) and (d) of this section, which includes any conditions, items, services, and drugs the hospice has determined to be unrelated to the individual's terminal illness and related conditions and would not be covered by the hospice.

\* \* \* \*

(c) *Content of hospice election statement addendum.* For hospice elections beginning on or after October 1, 2026, the hospice must provide the individual (or representative) an election statement addendum. The election statement addendum (and its updates) must include the following:

\* \* \* \*

(9) Name and signature of the individual (or representative) and date signed, along with a statement that signing this addendum (and its updates) is only acknowledgement of receipt of the addendum and not the individual's (or representative's) agreement with the hospice's determinations. If the individual (or representative) refuses to sign the addendum, the hospice must document on the addendum the reason the addendum was not signed and the addendum would become part of the patient's medical record. The addendum must also be available for non-hospice providers and Medicare contractors, although non-hospice providers and Medicare

contractors are not required to sign the addendum.

(10) Date the hospice furnished the addendum to the individual (or representative).

(d) *Timeframes for the hospice election statement addendum.* (1) For hospice elections beginning on or after October 1, 2026, the hospice must provide the individual (or representative) an election statement addendum, in writing, as set forth in paragraph (c) of this section, at the time of the hospice election (that is, within the first 5 days of the effective date of the hospice election). The hospice must also file this information with the election statement, as set forth in paragraphs (a) and (b) of this section, to be available for the individual (or representative), non-hospice providers, and Medicare contractors.

(2) If there are any changes to the plan of care during the course of hospice care that impact the addendum determinations, the hospice must update the addendum, within 3 days, with the contents described in paragraph (c) of this section, and provide these updates, in writing, to the individual (or representative), as well as update the addendum on file in order to communicate these changes to the individual (or representative), non-hospice providers, and Medicare contractors.

(3) If the individual dies, revokes, or is discharged within the required timeframe for providing the addendum (and its updates) (as outlined in paragraphs (d)(1) and (2) of this section), and before the hospice has provided the addendum (and its updates), the addendum would not be required to be provided, in writing, to the individual (or representative). The hospice must note the reason the addendum (and its updates) was not completed and/or provided, in writing, to the individual (or representative) and this note would become part of the patient's medical record. If completed, the hospice must still file the addendum (and its updates) with the election statement, as set forth in paragraphs (a) and (b) of this section, to be available for the individual (or representative), non-hospice providers, and Medicare contractors.

(4) If the individual dies, revokes, or is discharged prior to signing the addendum (or its updates) (as outlined in paragraphs (d)(1) and (2) with the required contents described in

paragraph (c) of this section), the addendum would not be required to be signed in order for the hospice to receive payment. The hospice must note (on the addendum itself) the reason the addendum (and any updates) was not signed and the addendum would become part of the patient's medical record.

\* \* \* \* \*

4. Section 418.26 is amended by revising paragraph (b) to read as follows:

**§ 418.26 Discharge from hospice care.**

\* \* \* \* \*

(b) *Discharge order.* Prior to discharging a patient for any reason listed in paragraph (a) of this section, the hospice must obtain a written physician's discharge order from the hospice medical director (or physician designee, as defined at § 418.3) or physician member of the interdisciplinary group. If a patient has an attending physician involved in his or her care, this physician should be consulted before discharge and his or her review and decision included in the discharge note.

\* \* \* \* \*

**§ 418.309 [Amended]**

5. Section 418.309 is amended in paragraphs (a)(1) and (2) by removing “2033” and adding in its place “2035”.

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***Robert F. Kennedy, Jr.,***

*Secretary,*

*Department of Health and Human Services.*

[FR Doc. 2026-15686 Filed: 7/30/2026 4:15 pm; Publication Date: 8/3/2026]