TEXAS
Department of Aging and Disability Services

COMMISSIONER
Chris Traylor

February 9, 2010

To: Medicaid Hospice Providers

Subject: Department of Aging and Disability Services (DADS)
Provider Services
Information Letter 10-21
Recoupment of Continuous Home Care Payments

The intent of this letter is to clarify the Texas Department of Aging and Disability Services (DADS) Continuous Home Care (CHC) requirements at *40 Texas Administrative Code (TAC), Chapter 30 Medicaid Hospice Program, §30.54 Special Coverage Requirements* and to inform hospice providers of problems identified during annual reviews of CHC that result in recoupment of CHC payments.

Recoupment Process

DADS conducts annual retrospective reviews of CHC claims. As a result of these reviews, DADS consistently recoups CHC payments in excess of the routine home care rate on a majority of the cases. The reviews continue to identify long standing issues of non-compliance with required criteria for CHC.

DADS also reviews hospice providers' requests for extensions of continuous home care. Upon receipt of an extension request, DADS conducts a review of the provider's documentation pertaining to the first four days of CHC. Based on the review, a determination is made to:

- approve an extension of CHC beyond the five days;
- deny an extension but allow the first five days; or
- deny an extension and disapprove the first five days of CHC and recoup all monies paid beyond the routine home care amount.

A majority of the cases reviewed for FY 2009 were denied an extension and the first five days of CHC were denied. In three cases, appeals were submitted, and in each case, the decision to deny was upheld.

Documentation of Crisis

Continuous home care payments are denied or recouped because the criteria for CHC in *40 TAC 30.54* were not met. The primary reason for denying or recouping CHC payments is the failure to provide documentation that supports a crisis. A crisis is defined in 40 TAC 30.54 as "a sudden paroxysmal intensification of symptoms that appropriate medical intervention and nursing services could reasonably be expected to ameliorate."

The crisis must be based on the individual's symptoms. Examples of a crisis are:

- uncontrolled pain;
- uncontrolled seizures;
- uncontrolled vomiting;
- uncontrolled diarrhea; or
- profuse bleeding.

Plan of Care

The crisis must be identified in the documentation submitted for review and the care plan interventions must address how the crisis will be resolved. The plan of care must:

- be established by the attending physician, hospice medical director or his designee, and the interdisciplinary team;
- be coordinated by the hospice registered nurse;
- address the needs of the individual;
- identify the services, including management of discomfort and symptom relief;
- identify the scope and frequency of the services needed to meet the needs of both the individual and the family; and
- document the medical need for skilled nursing.

Physician Oversight

Daily physician oversight of the plan of care must be documented. In the event of a crisis, the physician directs care based on clinical information relayed to him by hospice nurses. This requirement is not met if documentation of physician notifications, physician progress notes, physician orders or similar evidence demonstrating physician involvement in directing the individual's care during the crisis is not submitted.

There must be a physician's order for CHC. A physician's order that does not correlate with the time period for which CHC was provided and reimbursed is not considered valid for that CHC period.

Skilled Nursing Requirement

Skilled nursing services must be provided for at least 50% of the CHC period. If 24 hours of CHC are provided in a day, at least 12 hours must be provided by licensed hospice nurses. The services provided by the hospice nurses must be skilled nursing services and must not be those that could reasonably be delegated to a family member or nurse aide. If a patient's caregiver has been providing a skilled level of care for the patient and the caregiver is unwilling or unable to continue providing care, this may precipitate a period of crisis because the skills of a nurse may be needed to replace the services that had been provided by the caregiver.

Skilled nursing tasks include:

- administration of intravenous or intramuscular medications;
- placement of catheters; or
- clinical assessment for specific therapeutic responses.

In addition, for CHC billed for individuals residing in nursing facilities, the skilled nursing requirement is not met when the only tasks performed by the hospice nurse are comfort measures and requesting facility staff to administer pain medications. The hospice nurse must actually provide skilled care to the individual to meet the CHC requirement.

Alternate Placement

For individuals residing in their own homes, temporary alternate placement must be discussed with the family or responsible party prior to providing CHC. The family or responsible party must be advised that temporary alternate placement may be necessary at the end of the five consecutive days. This discussion must be documented in the individual's record.

Correct Billing

During retroactive annual reviews, billing is also reviewed for accuracy. A minimum of eight hours of CHC must be provided during a 24-hour day that begins and ends at midnight. Twenty four hours, or one unit, cannot be billed unless 24 hours of services are provided during a 24-hour day that begins and ends at midnight. Anything more than eight hours, but less than 24 hours, must be billed at the hourly rate. For example, if 12 hours of CHC are delivered on a particular day, the CHC cannot be billed as one unit, or 24 hours. The hourly rate must be billed for the 12 hours of services provided. Please review DADS information letter No. 08-39, dated March 18, 2008 for information regarding appropriate billing of continuous home care.

If you have any questions, please contact the Hospice Program Consultant at 512-438-3015.

Sincerely,

[signature on file]

Tommy Ford
Interim Assistant Commissioner
Provider Services

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