NewsLine

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The Volunteer Regs—Revisited

By Judi Lund Person, BA, MPH, and Jennifer Kennedy, MA, BSN, RN, CLNC

It has been over a year since the Centers for Medicare and Medicaid Services [CMS] published the revised Medicare Hospice Conditions of Participation (Hospice CoPs). While very few changes were actually made to the portion addressing volunteers (CoP 418.78) when compared with the original 1983 CoPs, some programs still appear to be struggling with the revised regulations.

This article recaps the new requirements, including the further explanations and clarifications made by CMS following the publication of the Interim Final Interpretive Guidelines on January 2, 2009 (i.e., the guidelines that help surveyors assess compliance).

First, a Little History

The original Hospice CoPs, published in final form in December 1983, incorporated the following statutory language, taken from the 1983-amended version of the Social Security Act:

> "[The hospice program must] (i) utilize volunteers in its provision of care and services in accordance with standards set by the Secretary, which standards shall ensure a continuing level of effort to utilize such volunteers, and (ii) maintain records on the use of these volunteers, and the cost savings and expansion of care and services achieved through the use of these volunteers."

In addition, CMS (then the Health Care Financing Administration—or HCFA) assigned the 5 percent numerical standard for volunteer efforts, and provided its rationale in the 1983 Hospice CoPs preamble:

> "We carefully considered all the comments concerning the use of a numerical standard for the volunteer effort…. Accordingly, we are requiring that a hospice must document and maintain a volunteer staff sufficient to provide *administrative* or *direct patient care* in an amount that, at a minimum, equals 5 percent of the total patient care hours by all paid hospice employees and contract staff.
>
> Administrative support in this context means *administrative support of the patient-care activities* of the hospice (e g., clerical duties in the offices of the hospice) and *not* more general support activities (e.g., participation in hospice fundraising activities). We will adopt this standard for three reasons:
>
> 1. Congress intended minimum participation requirements for volunteers;

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2. Our examination of preliminary data on the use of volunteers in the HCFA [CMS] hospice demonstration project persuades us that this is an achievable goal for all types of hospices;
3. Hospice groups have indicated that a 5 percent standard would be acceptable. We note that documentation indicating that the hospice meets this standard will be required at the time of the survey to determine that a hospice meets the conditions of participation."

What's Different Now

In the 1983 Hospice CoPs, the CMS definition of "employees" included "volunteers" to facilitate compliance with the core services requirement. In the 2008 Hospice CoPs, CMS elaborated on the ways in which volunteers—as employees—must be treated:

Criminal Background Checks
Since volunteers are considered employees, they are included in the criminal background check requirement per CoP 418.114.

Computation of Travel Time
If a hospice compensates its staff for travel time, the hospice can also count travel time for volunteers in meeting the 5 percent requirement. Per CMS:

> "We understand that traveling, providing care or services, documenting information, and calling patients all consume volunteer time, and we agree that the time may be used in calculating the level of volunteer activity in a hospice. If a hospice chooses to include any of these areas that are directly related to providing direct patient care or administrative services in its percentage of calculation of volunteer hours, it must ensure that the time spent by its paid employees and contractors for the same activity is also included in the calculation. What that means is that if your staff is paid for the time it takes them to drive to a patient's home, then you can count the time it takes for a volunteer to drive to a patient's home. However, if you do not pay an administrative staff for the time it takes to drive to the office, then you cannot count the travel time of the volunteer who drives to an office location to volunteer."

Of Note:
While the Hospice CoPs call for treatment of volunteers "as employees," an exception to this rule is completion of Form 1-9. According to the regulations issued by the U.S. Department of Homeland Security, Form 1-9 should only be completed for a paid employee (i.e., "an individual who provides services or labor for an employer for wages or other remuneration….").

Orientation and In-service Education
NHPCO regularly receives questions from members about the volunteer training requirements. The 2008 Hospice CoPs requires hospice providers to maintain, document and provide volunteer orientation as well as training that is consistent with the specific tasks that volunteers perform.

Volunteer Orientation
Regardless of the specific duties a volunteer will perform, orientation training should include:

- Hospice goals, services and philosophy;
- Confidentiality and protection of the patient's and family's rights;
- Family dynamics, coping mechanisms and psychological issues surrounding terminal illness, death and bereavement; and
- Guidance related specifically to individual responsibilities.

In-service Training

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Surveyors will also be looking for documented evidence that volunteers (1) are aware of their duties and responsibilities and (2) know to whom they should report before being assigned to a patient and family or given administrative duties.

Volunteers who are involved in direct patient care will need to understand whom to contact if they need assistance and instructions regarding the performance of their duties and responsibilities, and what procedures should be followed in an emergency or following the patient's death. For example, if a hospice provider utilizes volunteers for patient contact activities (such as assisting with patient transfers), the volunteer should be instructed on that specific activity or skill, and the provider should complete a competency evaluation of the volunteer's performance—initially as well as on an ongoing basis. Another example of specific volunteer training would be if a provider utilizes volunteers for its bereavement program: these volunteers would need specific training about the hospice's bereavement program and their role in the program. Volunteer competency evaluation documentation should be evident if the volunteer will have family contact (i.e., make bereavement phone calls). Surveyors will expect a provider to substantiate how volunteers are supervised to ensure that all volunteers are receiving the supervision necessary to perform their assignments.

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