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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 94 LCM-69

Date: June 17, 1994

Division: Health and Long Term
Care

TO: Local District Commissioners

SUBJECT: Hospice Care: Medicare Maximization Requirements for
Residents of Nursing Facilities and Intermediate Care
Facilities for Persons with Developmental Disabilities

ATTACHMENTS: None

The purpose of this memorandum is to clarify Medicare maximization requirements for residents of nursing facilities and intermediate care facilities for persons with developmental disabilities (ICF/DDs) who are dually eligible for Medicare and Medicaid and who have elected the hospice Medicare benefit.

Federal Medicare program guidelines for the provision of hospice care permit residents of nursing facilities and intermediate care facilities (ICFs) to elect the hospice Medicare benefit if:

1. the residential care is paid for by the resident; or
2. the resident is eligible for Medicaid and the facility is being reimbursed for the resident's care by Medicaid; and
3. the hospice providing care and the facility have a written agreement under which the hospice takes full responsibility for the professional management of the resident's hospice care and the facility agrees to provide room and board to the resident.

As these guidelines indicate, there is no direct Medicare reimbursement to the nursing facility or ICF if a resident elects the hospice Medicare benefit. Instead, Medicare reimburses the hospice for the care the hospice provides to the resident. If the resident is also eligible for Medicaid, the hospice receives a Medicaid payment for the room and board provided by the facility while the resident receives hospice care. The hospice then pays the facility.

Since there is no direct Medicare reimbursement to the nursing facility or ICF for care provided to residents who are dually eligible for Medicare and Medicaid and who have elected the hospice Medicare benefit, Medicare maximization requirements cannot be applied. Therefore, these residents should be excused from Medicare maximization requirements effective with the date of their hospice election. This action can be accomplished by converting each resident's principal provider file exception code of "1" to a value of "2."

Your district and any hospice offering care to nursing facility or ICF/DD residents for whom you are responsible may need to establish protocols to ensure that you are notified of those residents who have elected the hospice Medicare benefit. We are sending all hospices a provider letter clarifying Medicare maximization requirements for these residents and reinforcing the need for communication and mutual establishment of notification protocols.

If you have any questions, you may contact Bobbi Jennison or Anne Church of my staff at 1-800-343-8859, extensions 3-5562 and 4-9248 respectively.

Sue Kelly
Deputy Commissioner
Division of Health and Long Term Care