

PPS 2011

Face to Face Physician Encounter Q&A

Applicability and Impact on Payment

Question: Does the Face To Face rule apply when Medicare is secondary to another insurance company?

ANSWER: If Medicare payment is requested for all, or part, of the services provided, documentation of a face-to-face encounter is required.

Question: On the face to face requirement, does the MD have to document in his medical records or any place like the POC, the need for home health. Or does a verbal at the time of the referral good enough?

ANSWER: In terms of the physician's medical record CMS stated: "it is not our intent to penalize the HHA if the physician's own medical record documentation associated with the encounter is not in good order." However, CMS requires that the statement on the home health plan of care, or an addendum to the plan of care, be written by the physician, state when the encounter took place, identify the clinical findings of the encounter and how these findings support medical necessity for home health services and homebound status.

Question: Are the F2F Home Health requirements effective on and after January 1, 2011 for new SOC only? How will this new F2F rule be applied to patients on service prior to Jan 1 and who remain on service after Jan 1?

ANSWER: Face to face encounters are effective for all fee-for-service (traditional) Medicare patients who are admitted to home care on January 1, 2011 or after. The requirements apply to start of care episodes only.

Question: How about Medicare Managed care payers?

ANSWER: AMENDED 12/4/10 Neither the Affordable Care Act or this regulation apply Medicare Advantage patients. However, MA plans have the authority to implement face to face encounter requirements if they so choose.

Question: Just to clarify, this face-to-face requirement/regulation applies only to Medicare patients, correct?

ANSWER: AMENDED 12/4/10 The face to face encounter requirements published in the PPS 2011 final rule apply to Medicare fee for service patient only, not Medicare Advantage. However, we expect CMS to publish at some later date a face to face encounter regulation for Medicaid patients at a later date, as required by the Affordable Care Act. We've been advised by CMS that a notice of proposed rulemaking will be published "in Spring 2011."

Question: Would it be prudent to obtain the face to face encounter paperwork completed on dually eligible patients?

ANSWER: If there is a possibility that Medicare will be the payer, it would be prudent to ensure that face-to-face encounter requirements are met. However, the problem with face to face documentation at start of services when another payer is primary is that Medicare

may not be effective until a patient has been on service for period of time beyond the 90 day window, or after a change in condition, resulting in the need for a new encounter that complies with the timelines and home health primary reason requirements.

Question: For home health, does the face to face attestation or documentation have to be on our POC/certification (485)? If so, how can we drop a RAP if we have to wait for this documentation since we can't drop the RAP until the 485 is mailed???

ANSWER: Since physicians must supply the detailed information as to findings of the face to face encounter, and how these findings support medical necessity and homebound status, plans of care will be sent to physicians in the same manner that they are today. The only exception is that agencies should send guidance to the physician about the need to meet face to face requirements and what to document.

Question: If the F2F is not met on the first episode of care we understand that the episode will not be billable. However, if the patient is recertified, will the second episode be billable if the F2F was never received since that recertification episode technically does not require a F2F encounter?

ANSWER: We are waiting clarification from CMS as to the impact of failure to meet face to face encounter requirements on payment if encounters occur outside the required timelines.

Question: If a F2F has been completed and subsequently the primary reason for homecare changes before end of the first episode, is another F2F required? What happens if the service needs change after the face 2 face? As an example: SN for COPD. Skilled nurse determines OT & PT is needed? Service is not on original documentation of face to face.

ANSWER: The face to face encounter requirements apply to the primary reason for home health at start of care only.

Question: What if the patient is Medicare / Medicaid and not homebound? Do we still need the physician encounter?

ANSWER: If a patient is not homebound and does not qualify for Medicare home health coverage, a face to face encounter is not required. Homebound is not a Medicaid requirements, although we have heard that some States are incorrectly applying Medicare homebound criteria to Medicaid home health patients.

Effective date

Question: When does the face to face encounter take effect for skilled home care? Also how about any Home Health patient F2F encounter for patients admitted in December. Will the regulation apply to them and will they need these encounters or does it apply only to patients admitted starting on January 1, 2011?

ANSWER: Face to face encounter requirements are effective for all home health Medicare fee for service starts of care for patients admitted on or after 1/1/2011 only.

Discharge or Death before 30 Days

Question: What if a patient has not had a physician encounter before they are discharged from services? Might it be considered unscrupulous by CMS / intermediaries / surveyors if the HHA considers whether or not the F2F requirement has met before discharging the patient when otherwise they may be ready for discharge? In other words, should a discharge be “held” pending F2F visit?

ANSWER: The rule does not specify that patients must remain on home health services pending encounters 30 days of the start of care. The requirements simply states that the primary reason for home health be addressed by the physician conducting the encounter, and that the physician establish that the services provided during home health care were medically necessary and the patient was homebound at the time services were provided.

Question: Finally what if the patient dies, is hospitalized, admitted to a SNF, refuses further service etc. prior to the face-to-face encounter happening?

ANSWER: We have asked CMS if exceptions to face to face encounters will be granted when failure to meet the requirements are out of the control of the home health agency. However, we are not optimistic about how CMS will respond.

Notices and Patient Financial Liability

Question: What direction will be given to the QIO regarding expedited appeals?

If all efforts have been exhausted in an attempt to coordinate the face to face, the patient refuses to go to the appointment, and you are discharging for cause....the patient still has expedited appeal rights with the QIO. Will the QIO be able to extend the care and if so, will their decision in the record be sufficient documentation to bill for services?

ANSWER: We have posed this question to the Medicare Center for Beneficiary Services along with the model letters that NAHC developed.

Question: On page 316 the rule indicates that the face to face encounter is now a requirement for payment. However the lack of a qualifying physician encounter is not subject to the use of the HHABN. Since the patient no longer meets the requirements for Medicare payment (coverage) should we use the Generic notice (Notice of Medicare non-coverage)? I would think that this form would also apply if the patient refuses the encounter as described on pg 329.

ANSWER: AMENDED 12/4/10 CMS has emphatically stated that beneficiaries cannot be held liable when payment denial is based on lack of a face to face encounter. NAHC has revised beneficiary at: <http://www.nahc.org/regulatory/home.html> under **Home Health PPS 2011 Final Regulation**

Question: If we admit the patient who has not had the F2F encounter on good faith that plans for that encounter are in place, and at the 30 day mark the patient has not seen the physician, do we discharge the patient? Is there any provision to compensate the agency for the care provided in that 30 days? What is the “appropriate beneficiary notice” required? Is that abandonment?

ANSWER: AMENDED 12/4/10. CMS has taken the position that HHABNs are not appropriate when non-coverage is due to failure to have a face to face encounter. Home health agencies must give patients advance notice of their obligation to have a physician

face to face encounter and their financial liability/termination if the encounter does not take place. Agencies must also comply with State law related to termination of services. NAHC has challenged CMS' contention that patients may not be held financially liable when they fail to have a required encounter. But, until there is a policy change by CMS, NAHC recommends use of its revised beneficiary model letters at:

<http://www.nahc.org/regulatory/home.html> under **Home Health PPS 2011 Final Regulation.**

Question: If the patient were going to be charged due to non compliance with the Face to Face, how should they be charged? On a per visit basis or on "earned revenue" based on days on service within the episode?

ANSWER: AMENDED 12/4/10 Most agencies charge non-Medicare patients on a per visit basis. However, CMS has taken the position that home health agencies may not hold beneficiaries liable.

Question: Since we are not permitted to bill the patient for MC services, how are we able to bill the patient if they are unable to see a MD due to unavailability?

ANSWER: AMENDED 12/4/10. According to CMS, agencies are prohibited from billing patients that fail to meet face to face encounter requirements. NAHC disagrees with this policy. See model letters developed by NAHC and available on NAHC's web site at: <http://www.nahc.org/regulatory/home.html> under **Home Health PPS 2011 Final Regulation**

Hospitalists and Other Physicians

Question: AMENDED 12/4/10 Can you clarify regarding the face-to-face with on-call physician who may order the homecare dc from the hospital but will not be the certifying MD and is not a hospitalist---has CMS clarified this can we accept this as the face-to-face?

ANSWER: CMS has announced that it will revise its current policy that requires the certifying physician to be the ordering physician with certification and plan of care on the same document. Further, they will allow one physician to perform a face to face encounter and certification (e.g. hospitalist) and another physician to establish and sign the plan of care (i.e. community physician) when necessary.

Question: Did CMS state any specific information that the Hospitalist had to include to the referral in order to hand the case over the primary physician and at the same time certify the face-to-face encounter?

ANSWER: The face to face encounter documentation must "travel with" the home health certification of medical necessity and homebound status. Documentation of the face to face encounter/certification must include a "plan" for services (i.e. referral orders for care such as wound care, PT evaluation and treat, diabetic teaching) and the following:
(D) The physician responsible for certifying the patient for home care must document the face-to-face encounter on the certification itself, or as an addendum to the certification (as described in paragraph (a)(1)(v) of this section), that the condition for which the patient was being treated in the face-to-face patient encounter is related to the primary reason the patient requires home health services, and why the clinical findings of such

encounter support that the patient is homebound and in need of either intermittent skilled nursing services or therapy services as defined in §409.42(a) and (c) respectively. The documentation must be clearly titled, dated and signed by the certifying physician.

Question: Hospitalist providing the face to face encounter - does this mean that the hospitalist needs to sign both the attestation statement re: the encounter and the POC? Prior CMS publications state that the physician who signs the POC must be the physician who will follow the patient, if this still stands how can the hospitalist sign a POC?

ANSWER: As above: CMS has announced that it will revise its current policy that requires the certifying physician to be the ordering physician with certification and plan of care on the same document. Further, they will allow one physician to perform a face to face encounter and certification (e.g. hospitalist) and another physician to establish and sign the plan of care (i.e. community physician) when necessary.

Question: Could you give an illustration of situation where hospitalist does face-face and initial certification then hands off to community physician. Does hospitalist give only initial visit order or entire POC for initial episode?

ANSWER: When a hospitalist declines to be responsible for a patient after discharge from the inpatient setting, but is willing to document the face to face encounter/certification will be required to provide "initial orders," just as they now do upon referral to home health. (e.g. refer to home health for wound care, or diabetic teaching, or therapy evaluation). The community physician will be responsible for the entire plan of care.

Question: If a hospitalist (or other inpatient physician) performs the F2F encounter visit in the hospital and will not be signing the home care orders, does that hospitalist need to sign the attestation that the F2F occurred or will the community physician signing the orders attest to the hospitalist meeting that requirement? Same scenario as above but a community physician (not a hospitalist) is performing the initial (pre-SOC) F2F encounter. Do the same rules apply?

ANSWER: The hospitalist can be responsible for documenting the face to face encounter and certification of eligibility for home health services (See above for details), while the community physician's responsibility will be limited to establishing and signing the plan of care. The community physician has no responsibility for face to face encounter documentation in the cases where the hospitalist conducts the encounter. Note: NAHC encourages home health agencies to retain the certification language of homebound status and necessary nursing and therapy on the plan of care, as it currently exists.

Question: It wasn't clear if residents operating under the supervision of the certifying physician can conduct the face-to-face?

ANSWER: NAHC is still awaiting a response from CMS about the role of residents.

Question: We are a hospital based agency with the majority of our referrals from the hospital and our community based physicians use our hospitalist who order the home health at dc but the community based physician signs our orders. Can the community

based physician use the hospitalist's face to face encounter as the encounter for the certification?

ANSWER: Yes, see above.

Documentation

Question: Do you have any suggestions on how to obtain the physician documentation for F2F? What should it say? How are we going to get physicians to comply?

ANSWER: NAHC posted model letters and a template describing the required information on its web site at <http://www.nahc.org/regulatory/home.html> as starter tools for home health agencies to use to educate physicians. (Note: Letters were revised 12/5/10)

Question: How and when will physicians receive education re new face-to-face requirements? Do you have any suggestions for acceptable documentation methods?

ANSWER: CMS stated in the final rule notice that they will conduct physician education but CMS has not yet issued details as to how and when they will do so. Please refer to the model letters on the following web site as a starting point in your efforts to educate physicians <http://www.nahc.org/regulatory/home.html>. An email notice was sent to physicians by CMS, but dissemination is limited to physicians signed up on CMS lists. A CMS Medlearn Matters article is slated to be sent to physicians at the end of December.

Question: Can the attestation statement for home health be dictated by the certifying MD to the Home Health RN? Does it have to be in the physician's handwriting? If the required information is contained in physician documentation, such as a discharge summary from an acute care episode, will this document suffice as the addendum to the POC. Instead of using a separate physician-signed form, would you recommend an agency's Intake Department simply obtain verbal orders regarding the required encounter information, which are then sent to the physician for signature?

ANSWER: CMS stated clearly that the statement must be made by the physician based on findings during the encounter. CMS did not address whether an HHA may record a physician's statement about the encounter and have it signed. However, we have been told that CMS prohibits DME suppliers from using similar processes for meeting physician encounter requirements. NAHC will present your question to CMS in hopes that the home health position will be more lenient.

Question: If a patient transfers from one agency to another in the first 30 days of the initial episode and has a face to face encounter with the first agency then are they required to provide documentation of the encounter to the receiving agency? Or do they need to have another face to face encounter?

ANSWER: The rule states that the patient must have a physician encounter 90 days prior to or 30 days of the start of care that addresses the primary reason for home health. If the patient had an encounter within the required timeframe that addressed the primary reason for home health and the physician certifies homebound status and medical necessity, then that encounter would meet the requirements regardless of prior or subsequent services from your agency or another home health agency.

Question: While we realize we cannot create a template for the F2F-signing physician to sign, can the HHA present an explanation of the purpose of the document? An example of such a statement based upon final rule language: “As a condition for payment, the Affordable Care Act mandates that to certifying a patient’s eligibility for the home health benefit, the physician must document that the physician or one of the designated non-physician practitioners (NPP) has had a face-to-face encounter with the patient. Please document below the findings of that encounter, specifically the reasons supporting the patient’s need for home care.”

ANSWER: Such a statement would be permissible. NAHC has actually gone a step further in creating a guide for to help physicians at <http://www.nahc.org/regulatory/home.html>. CMS responded to an inquiry that a guide that allows the physicians to document in their own words how the findings of the encounter support medical necessity and homebound status is permitted.

Question: Can we present physicians with a form at referral that documents the face-to-face and use that as the addendum to the certification? Could we use some sort of a stamp that we'd add to the 485 to "fill in the blanks" of info needed to comply with Face to Face...and allow one document/one signature for the physician

ANSWER: See the answer above and NAHC’s web site for our recommended format at <http://www.nahc.org/regulatory/home.html>. We believe that a template such as this could be stamped onto the plan of care (485) or appear as an addendum. (Updated 12/4/10)

Question: What happens if F2F is conducted by MD#1 and the POC is signed by MD#2 because MD#1 is on vacation?

ANSWER: In light of notice language that the physician certifying (i.e. signing) the plan of care must be the physician that had the face-to-face encounter and document that on the plan of care, we have sought clarification from CMS about how face to face encounter requirements will fit with the longstanding policy that allows a covering physician to sign for another physician.

Question: Can the addendum predate the POC? As in we collected it at referral.

Answer: The way the regulation is written the addendum documenting the face-to-face encounter must be part of the home health plan of care certification process. Based on the CMS Open Door Forum, the face to face encounter and certification documentation may be completed by one physician and may predate the plan of care. This will occur when the face to face encounter is conducted and documented by an inpatient physician, and the plan of care completed by a community physician. .

Question: On page 315 the rule states that “the law requires the physician to document that the face to face encounter occurred prior to certifying HH eligibility as a condition of payment.” In the situation where the physician encounter is occurring within the first 30 days after SOC how can the physician certify the POC for those first 30 days? Does that mean that the certification on the orders is not valid until the MD encounter occurs and is documented?

ANSWER: All home health services will be covered as long as the physician is willing to document that the findings of a post start of care encounter support the determination that services were medically necessary and the patient was homebound from the start of care date.

Question: What happens with multiple physician practices? Can the discharging MD order HH and the regular MD in the same group sign the POC?

ANSWER: CMS has a longstanding policy allowing a covering physician to sign home health plans of care. However, we do not know if or how CMS intends this policy to apply to face-to-face encounter and certification requirements. We have submitted this question to CMS.

Question: Is it sufficient to have doctor sign once on 485 that includes statement of face to face encounter, instead of two separate signatures

ANSWER: This is another question that cannot be answered without clarification from CMS. We have submitted it and advise home health agencies of the response.

Question: Can a physician certify the plan of care, prior to performing the Face To Face encounter? On the model letter: Referring Physician Letter it states that the physician must have a documented face-to-face encounter before the physician signs the certification of the home health plan of care. Therefore, the plan of care cannot be signed until the face-to-face encounter has occurred?

ANSWER: CORRECTION: The face to face encounter documentation must be part of statement supporting homebound and medical necessity in the certification statement. The plan of care may be signed separately from the face-to-face encounter documentation. However, both the plan of care and face to face/certification statement signatures are required prior to submitting a final claim.

Question: Do you recommend agencies wait until receiving the physician-signed form before coding the episode?

ANSWER: We do not anticipate a need to change coding practices. However, if you have some specific concerns that we may not have considered we would like to hear of them.

Question: On the MD Encounter template, what are your thoughts about turning homebound criteria into a checklist?

ANSWER: Care must be taken to ensure that home health agencies do not lead or put words in the physician's mouth. Using a homebound checklist could be risky since it is not possible to identify all possible reasons for an individual patient to be determined homebound.

Question: Since CMS has clearly stated that the attestation must be created by the physician and their intention is to get the physician more actively involved in the admission decision, do you really think they will allow the definition of homebound and skilled need on the attestation form

ANSWER: We believe that physicians cannot respond to whether a patient is homebound without knowing what homebound means. Using the template, it is the physician will determine and document what it is about the patient's condition that makes that patient unable to leave home and only leave with considerable and taxing effort.

Home Health Medical Director/Employed Physicians

Question: For home health, can the agency's Medical Director (not employed by the agency but paid only for specific services) perform the Face to Face Encounter Visit? Can the agency pay him/her for this? Or could he bill for it himself?

ANSWER: AMENDED 12/4 Home health agencies may not pay medical directors or other employed or contracted physicians or non-physician practitioners (NPP) to perform face-to-face encounters. Agency medical directors may refer and certify patients under their care on whom they have conducted a face-to-face encounter as long as the payment by the home health agency is to perform administrative functions (i.e. review of policies, procedures, records, quality, etc.) and that they are paid fair market value for these services. Physicians and NPPs must bill Medicare Part B or some other payer for physician services rendered. Medicare will not pay for face-to-face encounters. However, Medicare will pay for other billable physician services provided in accord with the physician fee schedule. In addition, home health agency may set up separate physician/NPP practices whereby medical services are provided to patients and billed to Medicare or third parties. If they meet all of the Stark and anti-kickback rules related to referrals, employed physician and NPPs may conduct face to face encounters for home health agency patients as long as this is outside of their employed duties and time.

Question: As an NP/APRN can I do "face to face" for non-hospice patients as a 'contract employee' for other MD's? Face to Face for Home Health: physician/NPP employment, does this mean that a NP who works for a home health agency as well as the physician could provide a face to face visit for the physician he/she works for even though she is also an employee of the home health?

ANSWER: A non-physician practitioner (NPP) may be employed or contracted by a home health agency. The NPPS responsibilities must be for the purpose of performing non-physician functions (e.g. routine nursing visits, staff education, clinical consultation on home health patients, etc.) and they must be paid fair compensation for these functions. They may not be employed to conduct face-to-face encounters for the agency. However, as is the case with physicians, NPPs may conduct face-to-face encounters in their role of physician extenders outside of the agency in collaboration with/under the supervision of the certifying physician ordering home health. Their relationship with the home health agency must be in compliance with anti-kickback safe harbors. The patients that are provided "physician" services outside of the NPPs work with the home health agency may be patients of the home health agency that the NPP works for as long as in compliance with anti-kickback rules.

Question: Could you provide more clarification on MDs who are related to the CHHA?

ANSWER: Just as they are allowed to certify home health plans of care today, physicians affiliated with a hospital or a system that includes a home health agency will be allowed to continue to certify home health plans of care and conduct face to face encounters for

their patients. Simply stated, physicians that have a financial relationship with a home health agency may conduct face to face encounters and certify home health plans of care, whether one or several steps removed or directly employed by a home health agency, as long as they meet the Stark exceptions and anti-kickback safe harbors.

Question: A home health agency's parent company also provides Medical Home Visits and bills Nurse Practitioner visits to Medicare Part B for homebound patients. The Nurse Practitioner sends a copy of all notes to the patient's primary physician and consults with the physician, as necessary. Would this nurse practitioner's visits qualify for the primary physician to certify the required physician face-to-face encounter?

ANSWER: AMENDED 12/4 As long as a nurse practitioner works in collaboration with the physician (in accordance with State law) certifies home health services, face-to-face encounter requirements will be met. That nurse practitioner must communicate the encounter findings to the physician, who then must document the encounter according to CMS requirements.

Question: On pg 312 they note that “the clinical conditions exhibited during the encounter are related to the primary reason for home health care.” The designation of the primary diagnosis must follow coding principles and the OASIS manual appendix D. It may not match the diagnosis in the physician’s documentation. For example, a patient may be admitted to the hospital for pneumonia. The patient may have also suffered a recent CVA. When the patient is discharged, home health will be providing the majority of the care to the residual effects of the CVA, in addition to monitoring the pulmonary status. Under current guidance the primary diagnosis is the CVA and not pneumonia. How will this rule affect that guidance? In this situation we would hope that the physician documentation would note the history of the CVA. If it does not we will be left in conflict between regulations.

ANSWER: CMS does not intend to look for a match between the primary diagnosis identified by the physician and that of the home health agency. CMS wrote: “It is not our intent that those who enforce the provision would take such a literal interpretation to look for a cause and effect relationship between a diagnosis on the physician’s claim and the diagnosis on the HH claim. Instead, it is our intent that should a patient’s clinical condition changes significantly between the time of the encounter and the start of home health care such that the physician’s or NPP’s ability to accurately assess eligibility and care plan would be at risk, a more current encounter would be necessary in order to meet the goals of the statutory requirement. As such, to address the commenter’s’ concerns, we will expand on this requirement in manual guidance which we believe is the appropriate venue for such clarification.”

Compliance Monitoring

Question: Face to Face encounter - Please explain how it is the responsibility of the HHA to ensure this encounter occurs? How will it be monitored? Would it require HHA documentation of such?

ANSWER: CMS stated that it is the agency’s responsibility to ensure that the encounter occurs. However, CMS did not identify specific actions agencies must take. Rather, CMS

implied that agencies that fail to obtain the necessary documentation of an encounter will not be paid.

Question: Do you have any suggestions on how to obtain the physician documentation for F2F? What should it say? How are we going to get physicians to comply?

ANSWER: AMENDED 12/4/10 NAHC developed model letters and a guide for physicians and model letters for patients and referring sources to use to help meet face to face encounter requirements. Those documents have been corrected to comply with CMS' position that beneficiaries may not be held liable. Revised model beneficiary letters can be found on NAHC's web site at:

<http://www.nahc.org/regulatory/home.html> under **Home Health PPS 2011 Final Regulation**

Question: Will home care agencies be responsible to monitor the quality of the clinician's attestation summary.

ANSWER: Home health agencies will be in danger of having their claims denied if face to face encounters statements don't meet requirements specified by CMS. CMS plans to develop guidance for its contractors on conduct of medical review to determine compliance and manual instructions for home health agencies.

Question: In Home Health Care can the physician completing the visit bill for the visit?

ANSWER: Physicians may not bill Medicare solely for conducting a home health face to face encounter. They may bill Medicare, as they always have, for other services provided during that encounter in accord with the physician fee schedule.

Question: Is it accurate to assume that a failure to conduct the face-to-face visit in either the home care or hospice environment would expose the provider to an FCA violation if the provider submits for reimbursement?

ANSWER: Providers will be in violation of the false claims act if they submit claims to the Medicare program knowing that qualifying and coverage criteria, including face to face encounter requirements, have not been met.

Question: So the HHA must have a copy of the documentation for the encounter, but what if the documentation isn't as complete as the form you gave us? What is the responsibility of the HHA to obtain ALL the information, or that the same doc signs the encounter and the POC?

ANSWER: CMS dropped its proposal to require that physician medical record documentation support the home health plan of care/addendum documentation of face to face encounter. CMS will require that the face to face encounter statement on the home health plan of care, or an addendum to the plan of care, be written by the physician, state when the encounter occurred, identify the clinical findings of the encounter and how these findings support medical necessity for home health services and homebound status.

Payer Change

Question: How does the new requirement apply if the patient undergoes a payer change to Medicare during the episode? What about if insurance changes occur after admission

change from commercial to MC? If we have a payer change in 2011 on a patient who is our patient in 2010 do we need a face-to-face encounter for the "new" admission relative to the payer change?

ANSWER: Patients who have a payer change to Medicare after 1/1/2011 will be required to meet face to face encounter requirements for the Medicare start of care.

Question: If your client does not have the face to face encounter that is a condition for payment, can you bill Medicaid?

ANSWER: This will not be an option in light of the anticipated regulation for Medicaid face to face encounter requirements. Furthermore, it is highly unlikely that Medicaid will pay for Medicare covered services based on an agency's failure to meet Medicare regulatory requirements.

Other

Question: Might it be considered unscrupulous if the HHA is involved in facilitating an appointment with a physician who will perform the F2F visit? This physician may or may not be performing a home visit and may or may not be the physician signing the plan of care.

ANSWER: Home health agencies can and should facilitate patients' physician appointments. CMS considers physician face to face encounters to be an important quality of care issue. However, home health agencies may not provide free transportation or other items or services that could be considered a gift in prohibition of patient gift anti-kickback regulations (e.g. cab vouchers, etc.)

Question: Can the physician make a home visit to conduct the face to face encounter?

ANSWER: CMS did not impose limitations on sites for face to face encounters, other than those for telehealth. Encounters may take place in the patient's home, hospital, SNF, physician's office, etc.

Question: Is there a chance that the implementation date for this legislation will be delayed?

ANSWER: NAHC is working to have the enforcement of the face to face encounter requirements delayed, much as we did with PECOS. We will ask home health agencies to join in a letter writing campaign to Congress. Watch NAHC Report, the NAHC list serve and the NAHC Legislative Action Center

<http://www.congressweb.com/cweb2/index.cfm/siteid/nahc>,