Certification of Medicare Home Health Services by Nurse Practitioners

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Abstract

The list of reports and literature supporting full practice for nurse practitioners continues to grow but Medicare regulations are not keeping up. The Code of Federal Regulations (CFR) Title 42, Section 424.22, is the section that details the requirements for home health services and the physician-centric language states that Medicare pays for home health services only if a physician certifies (and recertifies) that the patient requires these services (Legal Information Institute, n.d.). Allowing NPs to certify home health at the time it is needed could eliminate delays in care, and allow patients the right to choose their home as the place to recover.

Each paper in the stack required a signature, each page had a detailed account of the care provided to my patient or an order for medication and the stack was growing every week but I was unable to sign even a single page. My patient had good control of her diabetes but after a fall resulted in a shoulder injury, she required hospitalization and surgery. When she was released from the hospital she was unable to care for herself, she could not drive and she could not open pill bottles, check her blood sugar or draw up insulin to treat her diabetes. Home health to the rescue! Unfortunately the federal law had not changed since the last time I ordered home health for one of my patients; as a nurse practitioner I am not allowed to certify my patient's need for home-based care, regardless of how obvious the need or my skill in caring for her. The growing stack of papers waited for a physician in the office to find enough time to sign every one, resulting in delays of care for my patient.

Introduction

Health care organizations are struggling to find enough health care providers to meet the demand for patient access. During the next decade, the United States (U.S.) Census Bureau has projected a growth rate of 36% in people 65 and over, a cohort of the population that typically uses more health care, with Medicare being the primary insurer of this group (Colby & Ortman, 2014). The U.S. Department of Health and Human Services estimates physician supply will increase by just 7% during the same time period, with a projected deficit of more than 20,000 physicians by 2020 (National Center for Health Workforce Analysis (NCHWA), 2018). This projection reveals the difficulty health care organizations will have finding enough physicians to deliver patient care. The number of advanced practice clinicians (APC) entering the workforce in the past five years has been significant; APCs play a key role in improving access to care and includes the nurse practitioner (NP), physician assistant (PA), certified nurse midwife, certified registered nurse anesthetist and clinical nurse specialist (American Association of Nurse Practitioners, 2018; Naylor & Kurtzman, 2010). Not surprisingly health care organizations are turning to APCs to provide more care to their patient populations but health care regulations have not kept up with this shift (Bodenheimer & Bauer, 2016, p. 1015; Health Resources & Services Administration, 2018).

Medicare was enacted in 1965 as a way for the government to ensure health insurance coverage for Americans 65 years or older (Bodenheimer & Grumbach, 2016, p.11). Coincidently this was the same year the very first NP program was created so the future use of NPs was not a consideration in the Medicare language or regulations (American Association of Nurse Practitioners, 2018). It was not until 1997 that NPs were identified as "providers" for purposes

of delivering and billing for care but the regulations that direct Medicare have not been updated to reflect the growing role of NPs in the delivery of care to its recipients (Wolff-Baker, 2018).

The Code of Federal Regulations (CFR) Title 42, Section 424.22, is the section that details the requirements for home health services and the physician-centric language states that Medicare pays for home health services only if a physician certifies (and recertifies) that the patient requires these services (Legal Information Institute, n.d.). This is one of the many sections in the Medicare regulations that require updating to reflect the growing consensus that NPs are capable of delivering safe, high quality care. The Institute of Medicine report (2011) states what many in health care now recognize, that "the (NP) should be called upon to fulfill and expand their potential as primary care providers across practice settings based on their education and competency" (Institute of Medicine (IOM), 2011, p.22-23). The IOM report further comments that (NPs) can increase "access to quality care" and this "increase(d) access to care will lead to "significant reductions in hospitalization and rehospitalization rates for elderly patients" but "outdated regulations…and policies prevent (NPs) from practicing to the full extent of their education, skills, and competencies" (Institute of Medicine (IOM), 2011, p.27-28).

Stakeholders

Patients are the direct beneficiary of a change in CFR, Title 42, Section 424.22 because it would allow them "more direct access to home health and hospice services" and the ability to remain at home, receive their care there and also return to home (from hospitalization or assisted living) sooner (Brassard, 2012, p.4). Currently an NP is not allowed to certify that a patient needs home-based health and a physician must sign off certification in order for Medicare to approve home-based care. There are delays in getting these signatures (see scenario at beginning of paper) and therefore delays in care, worsening chronic conditions and even unnecessary

emergency room visits. Allowing NPs to certify home health at the time it is needed could eliminate these delays in care, and allow patients the right to choose their home as the place to recover.

Physicians and health care organizations also benefit with the addition of NPs to CFR, Title 42, Section 424.22 through the elimination of paperwork and reduction of workload (Brassard, 2012, p.5). Every patient moving to home health requires a physician to certify this; the paperwork flow begins with an NP seeing the patient and then sending a report to the physician about the readiness for home health. This paperwork comes into the office as a fax or electronic form that must be printed, signed by the physician and then faxed back to the home health agency. Every time the paper is moved electronically, valuable staff time and resources are wasted. These resources could be used making more important contributions to patient care.

Medicare is a stakeholder as well. Millions of dollars would be saved from a reduction of unnecessary emergency room visits and preventable hospitalizations if NPs could provide timely care to patients and certify home health (Brassard, 2012, p.5).

The NP is capable of seeing the patient and making the determination that a patient needs home health instead of a physician (Brassard, 2012, p.5). This would have an impact on reducing the current workload of a physician who is already burdened with patient care responsibilities and productivity targets. Requiring a physician to sign off on a task that has already been completed by the NP is duplicative and wasteful.

Legislation

Multiple stakeholders including AARP Public Policy Institute, Gerontological Advanced Practice Nurses Association (GAPNA), American Association of Nurse Practitioners (AANP), National Association of Home Care and Hospice (NAHCH), and American Academy of Home

Care Medicine (AAHCM) support a change to the outdated language within CFR, Title 42, Section 424.22 to allow NPs and other APCs to certify home health services for Medicare patients. The most recent legislation is Home Health Planning and Improvement Act of 2019, introduced with bipartisan support into both the United States Senate as S.296 and the House as H.R. 2150. This legislation has been introduced five times in the past 10 years, gaining many co-sponsors but has never received an analysis by the Congressional Budget Office (CBO), something that is required by law. The CBO must produce a formal cost estimate for almost every bill that is approved by a full committee of either the House or the Senate (Congressional Budget Office, 2019).

Recommendations

The National Association for Home Care & Hospice 2016 legislative priorities included the recommendation that NPs and APCs are allowed to certify Medicare home health plans of care because they already deliver, bill and are reimbursed for several "physician services" such as "surgery, consultation, and home and institutional visits and certify eligibility for skilled nursing facility services, home medical equipment, maternity-related services (for disabled women of child bearing age who are Medicare-eligible)" (National Association of Home Care & Hospice, 2016). Allowing all of these services *supports* the recognition that NPs and APCs can function in an expanded role, *and* bill for it, therefore the restriction on certification of home health is in direct opposition to this acknowledgement. Congress should eliminate the variation in the utilization of APCs and pass legislation that allows NPs and APCs to certify home health.

Financial Implications

Whether an NP is employed by a home health agency or owns her own home health business, there must be a business relationship with a physician to sign certification forms; the

agency or the NP pays the physician for this. Additionally there is no cap on what this charge for a signature could be. If the NP cannot find a physician willing to sign off home health certification, the patient will need to see the physician in their office, often an expensive, stressful ordeal for a bed- or wheelchair bound patient. These indirect costs, while real, are hard to capture for purposes of legislative change.

The American Nurses Association and American Association of Nurse Practitioners joined forces to do an assessment of cost by commissioning Dobson DaVanzo and Associates, LLC (Dobson & DaVanzo), specifically looking at the impact of adding NPs and APCs to certify home health on Medicare expenditures (Dobson & El-Gamil, 2014). While their study was small (convenience sample of 18 NPs, clinical nurse specialists, case workers, and discharge planners) their model was based on the CBO baseline estimate of home health spending projected from 2013 to 2022 and the researchers Dobson & El-Gamil used 1) the annual number of Medicare home health episodes, and 2) the average number of home health episodes by user (2014). The physician certification for home health was calculated at $53.38 and a recertification $41.20; the APC was assumed to be reimbursed at 85 percent of the physician rate (this is the current rate and practice).

An additional consideration was the required face-to-face encounter (mandated by the Patient Protection and Affordable Care Act) "within 90 days prior to (or within 30 days of) the start of care" and could be delivered by a physician or APC. They then developed assumptions about the percentage of home health visits that certified or recertified by an APC under the proposed legislation, rather than a physician.

Dobson and El-Gamil also made the assumption that there were no barriers to practice in any state and that APCs scope of practice did not prevent them from certifying home health

(2014). Currently NPs have independent practice in 22 states and Washington, D.C. but none of these "independent practice" states regulate Medicare home health certification (American Association of Nurse Practitioners, 2018). They projected that 20 percent of home health will be certified by APCs in 2015 and projected in the next ten years the percentage would increase to 70 percent because of the increased role of APCs in patient care and the anticipated reductions in the supply of primary care physicians.

In 2015, the estimate of national Medicare savings was $7.1 million, with a five-year national savings of $82.5 million. Between "2015 to 2024, Medicare could save approximately $252.6 million by allowing (APCs) to complete home health certifications" (Dobson & El-Gamil, 2014).

Conclusion

"Given their…role in providing care, nurses will play a significant role in the transformation of the health care system." (Institute of Medicine (IOM), 2011, p.24). NPs and other APCs are becoming a more visible part of health care delivery in the U.S. and responsible for many tasks and procedures previously restricted to physicians; this will require changes in regulations that prevent APCs from delivering care. Adding NPs and APCs to CFR, Title 42, Section 424.22 makes sense and would reflect the changes already made in several other regulations allowing NPs and APCs to provide, bill and be reimbursed for previously identified "physician services". Allowing NPs and APCs to certify home health services for patients saves time, money and health- something this country could use more of!

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