HUSCH BLACKWELL

Hospice Insights: The Law and Beyond

Episode 18: No Delay for Hospices: October 1st Brings New Election and Addendum Requirements

August 21, 2020

Speaker	Statement
Meg Pekarske	Hello! Welcome to Hospice Insights: The Law and Beyond. Where we connect you to what matters in the ever changing world of hospice and palliative care. "No Delay for Hospices: October 1st Brings New Election and Addendum Requirements." The hospice industry expressed its collective disappointment when CMS declined to give hospices additional time to implement the new election statement and addendum requirements. So beginning on October 1, 2020, hospices will need to roll out new forms, processes and training to address these new conditions of payment. In this episode Meg Pekarske and Andrew Brenton discuss the key takeaways and flexibilities provided by the rule as well as insights and how they should guide implementation. Welcome, Andrew. Thanks so much for joining me today. How are you doing?
Andrew Brenton	Hey Meg, great to be here. Thanks for inviting me. Doing well. Already kind of coming towards late August here. Surprisingly, it's been many months working from home in the pandemic, but doing well. All things considered.
Meg Pekarske	Well, talking about the new wage index here reminds me when you started, we started working together last July, right?
Andrew Brenton	Yes.

Speaker	Statement
Meg Pekarske	I think your first week you were on our podcast talking about the wage index for 2020.
Andrew Brenton	That's right.
Meg Pekarske	And so, here we come full circle.
Andrew Brenton	Full circle.
Meg Pekarske	We had wanted to do this you know, right away when the wage index came out. But I think that in addition to some other work that was very time sensitive, I also think that we wanted to really put some thought into what are some takeaways and how can we be helpful. Because I think the mission of our group is really answering the question of how can we be of service to our clients in the industry and how can we be helpful. I think that in today's podcast, what I wanted to cover, Andrew, was less about every single element of the election and the addendum, but more of the big picture sort of operation of things. Because while I think that many people feel panicked about these new requirements, I think that when you break it down into when is this addendum going to come into play and how can I guard against denials related to my election. I think we have some good food for thought there. But before we get there Andrew, why don't you set the stage because we help provide some comments back to the proposed wage index hoping to get some changes. And so, tell us what we wanted and then what we got.
Andrew Brenton	Yep. Yep.
Meg Pekarske:	I know, third week, why don't you give that.
Andrew Brenton	Absolutely. You're right. So back in the spring, CMS released the proposed rule. We provided comments and then, when the final rule was released at the end of July, just like you said. Didn't really get a lot of what we wanted. So, kind of running through a high level here. We wanted a delay to these new requirements. They had been scheduled to take effect October 1, 2020. We thought CMS would be sympathetic to the fact that hospices and other providers are really struggling with the pandemic and trying to provide care during the pandemic. Unfortunately, CMS, they did decline to provide an additional year extension or additional time for hospices to implement these requirements. So, they will be taking effect as scheduled for elections starting October 1, 2020.
Meg Pekarske	I think too, there are a lot of practical hurdles just beyond the pandemic that people are scratching their heads about is you know, my EMR vendors. There are a lot of people that we rely on to do the stuff that they're asking us to do including like printers. If you're doing hard copy

Speaker	Statement
	elections and other things. And so, really tried to push hard on the practical challenges but to no avail.
Andrew Brenton	Right, right. Unfortunately. We were also hoping that CMS might relent a little bit in trying to pursue this characterization of the election statement addendum as a new Medicare condition of payment. Or at the very least, they wouldn't go that far, that they would provide some standards, some clear standards for how CMS and the medical contractors would kind of implement that new condition of payment from a Medicare payment perspective. Again here, we did not get what we wanted. CMS went forward with its characterization of the addendum as a new Medicare condition of payment. And frankly, didn't establish any kind of clear standards on what that means. As we'll see here a bit later. There's a lot of unknowns kind of with respect to this whole condition of payment—the addendum as a new condition of payment.
Meg Pekarske	Yeah. And we really took another kick at the can there in trying to push back hard on just legal questions surrounding, can this really be a new condition of payment without going through a statutory change. And then also logically speaking, something that happens you know after, essentially after someone elects, can that really invalidate and how. Like you say, we'll get into some of the unknowns here about how can this practically speaking really implicate payment, and if so, how. But um, didn't relent there. But we did get some changes on the model election statement. Obviously, people don't have to use that election statement, but I know you and I had talked about some concerns about their election statement, which I think one of the things we're going to talk about is why or should folks consider using that election statement. I think our pause was it did have some nonrequired elements and ways I think from our perspective could increase user error. And so, anyway, tell us a little bit about what we got there on the model election. Because that's probably the only bright spot.
Andrew Brenton	Just like you said, one of the things we want CMS to do in terms of updating its model forms compared to the versions that they released in the spring. We did want them to remove some elements that are not required content elements per the regulations, per the election statement regulations. So, for example, CMS did decide to remove these check boxes where the patient would select whether they did in fact want the addendum. Whether they were requesting the addendum. That's not a required content element for the election statement itself as we'll see. That required content is that the hospice has to provide notice of the patient's right to receive. But the patient doesn't need to make that decision on the election statement. So, CMS for example, removed those check boxes where the patient would have indicated, yes, I want the

Speaker	Statement
	election statement. No, I don't want the election statement.
Meg Pekarske	You mean the election statement addendum.
Andrew Brenton	Excuse me. Yes. Yes.
Meg Pekarske	That's such a critical point. And I think while it seems like a minor victory, I think it's really important because when we talk about the flexibilities and how you implement this and what processes you want to do, that is really, really important is that they did say, yeah, you don't need to document the patient's choice on the form. So, something you and I have been paralleling this to. I'm like, when they added the attending physician language to be election form, that's a two-part requirement. Like they both have to acknowledge your right to choose in attending and identify an attending if they have one. That both needed to be on the election statement here is just a notice that they can request this addendum if they want to. And I think that that's where we're going to spend some time talking. Well okay, that's actually good. And how then do I build a process around that, and how do I memorialize that. Because they haven't created the true standard, right? Like there's no one way to prove that someone did or did not want it. And so, I think that that's really important but probably not the sexy stuff that made headlines, right? For you and I who think about this day in and day out, it was something that we have been playing around with that. Any other insight into what we got versus what we wanted?
Andrew Brenton	Yeah. You know. A couple of other kind of high-level pieces here. There were a couple kind of specific areas where we and the hospice industry wanted a little bit more guidance on what some of the stuff means. For example, you know, we had to ask CMS to provide guidance on the use of patient representative electronic signatures in the context of the addendum and the election statement. CMS had previously sort of, kind of deferred to the Medicare contractor. Didn't really want to come out and kind of specify how patient electronic signatures would be processed for medical review. So we wanted a bit more guidance on that. Again, didn't get that. CMS kind of reiterated what I previously said which is that this is a decision that's left up to the Medicare contractor. So didn't get any additional guidance there. Also, didn't get any additional guidance on what happens if a patient or representative, they request the addendum but then for whatever reason they don't want to sign the addendum. As we'll see the patient or representative signature is a required content element for the addendum. So, then the question is raised, well what happens if the patient doesn't sign that? CMS again here deferred they did not provide guidance and they said that this really isn't kind of an area that they think will, there will be a lot of activity in.

Speaker	Statement
	So, they don't really feel the need to provide guidance at this time. So those are a bit disappointing.
Meg Pekarske	Yeah. And you and I work together a lot so you're going to get my funnel analogy here but let's funnel this down. Is, you know, because again, I think there's a lot of anxiety of how am I going to get all this stuff done is, you know, these are uh, a smaller and smaller group of patients, right? So obviously all patients have to have the elections statement. How many patients are really going to request this addendum, right? And so, some of the things like – they have to request it, so um, you know, you could create a request form or something where they could request it and similar to like a change of attending form or something, where they memorialize that so you can prove that indeed, they did request this. And you can track that through your system. Again, the things that need to be on this addendum are things that are unrelated to the terminal illness. And so, I think it's really critical in the education that we give to our staff, and therefore how to explain to patients is that these things, if there are any that are going to be unrelated, that essentially you're not waiving your right to coverage for those. And the coverage will continue as it has prior to your start of the hospice election. And so essentially, you know, I think if folks were going to incur a lot of expense, I see people maybe clamoring for this form but if essentially it's like, okay this is just an awareness factor but Part D or whatever is going to continue to pay for these items, you know, that is . . . so anyway, I think that that's important is the funnel down is, okay, how many people are going to request this form? And then request it at the time of the election? And then what sliver isn't going to sign it and send it back. I mean, hopefully we're talking about slivers and slivers and so some of this unknown, hopefully, will feel less scary because it's like, okay, let's put this in perspective. This isn't everyone, right? I mean it's not everyone probably isn't going to ask for this form. And so anyway, I think that to me, it's helpful to think of that as a visual and you know, our listeners, our folks who actually have to implement this, I think that's an important reminder and understanding is key to training and what are good processes. And so that's sort of get into some of these things on the – let's first start with the easier part of the elections statement and why don't you explain at a high level what the changes are here, and then do you think it's a good idea to use the model election statement? I mean, my two cents is when we review the election forms, there's a lot of stuff that's not required to be in the election form and I know you and I when we were revise those, we gotta say, remove this. So tell us how does Medicare's election form compare to what we normally see people use.
Andrew Brenton	Yeah great. I appreciate the question. So CMS is – their new model election statement form, I guess first of all, it includes the four new

Speaker	Statement
	required pieces of content for the election statement. So there's now kind of an explicit statement. You have to include information indicating that services unrelated to the terminal illness are exceptional and usual. The hospice will be providing virtually all care. Provide information on patient cost sharing, hospice services if there are any. If there is any cost sharing. You have to provide the patient now with information on this Beneficiary and Family Centered Care Quality Improvement Organization, the BFCC-QIO.
Meg Pekarske	(Laughing) There are more acronyms. I'm laughing because that does not roll off the tongue, but maybe someday it will. Because, well I hope not. I hope it doesn't get overly involved. But okay.
Andrew Brenton	Totally. Yeah. And this QIO they're sort of there to kind of provide immediate advocacy, is the term to the patient. So the patient can contact this QIO about their right to immediate advocacy. The contact information about this QIO. There are, I'm not going to get into this a lot but there are a lot of unknowns about, you know, what is this QIO's function. Are they going to be able to overturn the, you know, coverage determination of the hospice? Do they have any sort of enforcement power? So there's a lot that's unclear on that. But again, it is now a required content element that you have to inform the patient of their right to immediate advocacy from this BFCC-QIO. And then . . .
Meg Pekarske	And just something to add to that – I mean, I think what I've been hearing is that um, I don't know if the QIOs even know at this point, sort of what their role is and how they're going to do it. I think they're going to be getting training from CMS here soon. So I think that this is, my mentor Mary Michael would say, you know, you're flying it while you're building it or whatever. It feels a bit like that. We're not quite sure exactly what's going to happen and as you said, what's their scope of authority and I would expect that they can't overturn our coverage determination. Similar to when you go to the QIO when you know, if someone is getting discharged from hospice. We're not required to take them back. I mean, that was made more clear. So – but I think you're exactly right. It is being sort of worked out and I think a theme in our comments is I think we're going to understand what impacts payment and what's the role of the QIO sort of through enforcement. Like, through the boots on the ground and I mean, that's what's nice about our practice, is we you know, span the United States so we really sort of pick up on trends very quickly and so obviously if we do, we'll be doing a podcast on that. But I think you're right. It's a big unknown and we'll hope for the best. But what else, Andrew?

Speaker	Statement
Andrew Brenton	The last new required content is kind of the most prominent I guess. We've already kind of addressed this. You have to now notify the patient that they have a right to receive an election addendum. And again that addendum is going to, among other things, sort of be a list of conditions, items, services, drugs, that the hospice has determined are not related to the patient's terminal illness or related conditions. And therefore not covered by the hospice. So those are the new content requirements. So in terms of how the new CMS model form looks compared to the existing form, those pieces are now all addressed in the new form. Additionally we already mentioned that. CMS decided to remove the check boxes from the form earlier this spring where the patient would have selected yes I want the addendum or no I don't want the addendum. So CMS removes those. So those aren't in the new form. Other differences and we'll kind of get into this as we start talking too about whether you know, just considerations on how to update your form. But the new CMS form has some new blanks which can kind of alarm us from a user error prospective. You know, additional blanks create room for additional error. You know, a patient could improperly fill out the blank. Staff could sort of be unclear as to how the blanks should be filled out. So the CMS form now does have new blanks where they didn't earlier, those blanks include a spot for the BFCC-QIO name and the phone number. So hospices are going to have to kind of figure out what QIO is the QIO for this specific patient. And then also find the phone number. I believe there are only two BFCC-QIOs so that shouldn't be that difficult to figure out which one, you know, has jurisdiction over your service area. But again, that's a new item in the form. CMS also removed the witness section. Not a big deal, but again, kind of consistent with their overall approach of taking things out of the form that aren't required by regulation to be there. And then . . .
Meg Pekarske	. . . Andrew, while – just to I guess, we're going to post the election form in the line or notes for this podcast episode so people can get it there. And I think that in terms of, you know, oftentimes if it can be beneficial is related to the effective date language – just like when is this effective and then they also have a signature date. Oftentimes we see and have now seen problems with when people say the effective date is the date I signed this unless I identify, you know, another day. Which you know, cannot be a date in the future essentially. And so to your point about blanks and all this stuff and so, you know, there's probably some room around the edges but I think the takeaway here though, Andrew, is take a hard look and take ego aside and like, I'm really attached to what I created over the last 25 years is that there is some security when you use CMS's form. There could be some wisdom in using the model election statement maybe with some minor edits.

Speaker	Statement
Andrew Brenton	Yup. Yup. Yeah and I guess yeah, I like your idea for the startup care effective the date of the election to you know, have the default date be the date on which the patient signs the election statement unless they fill in the blank stating that the effective date will begin on a future date. And yeah, I totally agree with your point about there's you know, wisdom and comfort in using the CMS model just because that, you know, it would be hard for a Medicare contractor to look at the model that you're using and say, well you're missing, you know, X, Y or Z content requirement because CMS includes that in their model form.
Meg Pekarske	Or I think even more subjective than that is I don't think this, the words you use to address this element, I don't feel like it's sufficient. Right? So we dealt with that 7, 8 years ago when CTS was saying you didn't use palliative rather than curative in describing that. Interesting CMS does not use "that magic language" in its form just by in the past, you know, and those all ended up being resolved. But I do think there's some comfort in that. But again, you know, take a fine tooth comb and some of the suggestions we talked about I think could be pretty helpful. So that, I think in terms of risk management, you know, from a content standpoint, you can really reduce your risks there by perhaps throwing away what you did and developed over 20 years and it's now 3 pages long and stuff. And take a look at considering this and make it more streamlined which I think gets into the next place I wanted to go which is . . . so the election is intended to meet very specific legal requirements. We, as a hospice, provide lots of information that further describes how healthcare is provided and your rights and responsibilities and things like that. And so the patient handbook can be a place where you can provide additional information to folks and I think that this additional information might be a place where you describe about how they can request this addendum if they indeed want it. And you know, describe what it means when drugs are unrelated from a patient's prospective. You know, are they going to be responsible for paying for these and essentially whatever existed before for this, is going to exist now. Whatever coverage you had it's like the world shouldn't change because your waiver of traditional Medicare benefits doesn't apply for that because it's just unrelated things. So about how they're going to revise their systems and processes, one might be take a hard look at your election. Then how do you want to address some of these things in your handbook? And so you and I have spent some time talking about that. What kinds of thoughts do you have about this handbook idea and what might go in the handbook as it relates to this addendum because CMS gave us some flexibility around documenting, you know, provided information about this and described it? So – your thoughts?

Speaker	Statement
Andrew Brenton	Yeah. Yeah. So, and again here, as we stated, with respect to the addendum itself, the new condition of payment is that that addendum must be provided only upon request and if there are, you know, these conditions, items, services, etc. unrelated um, and that the hospice has determined not to cover because they're unrelated. So that's a condition of payment but CMS in its rule commentary does say that they expect hospices to document that the addendum was discussed, whether it was requested. They're saying that, if they're doing a medical review of a hospice and they're not seeing a signed addendum, that having some sort of documentation, that the addendum was discussed and requested or not requested, that that could help avoid claim denials. Even though, as you just said, that documentation itself is not a condition of payment. But again, I think this is an area, Meg, where you know, having a policy or you know, some section of the mission handbook could be helpful here - to kind of automate this process, to systematize this documentation process documenting whether the addendum was requested or not. So you know, you could have a policy, again, perhaps include that in the mission handbook, that says if the patient or representative wants the addendum, that they are going to affirmatively request it and that can be done, you know, you can even develop a new form. An Addendum Request Form – similar to our release analysis to the change of attending physician form. You'd have a separate and distinct form whereby the patient could fill it out and then that's how they request the addendum. If you have some sort of process like that, that could help kind of put some infrastructure in place here, you know, so that if you are audited or during post cumulative review, you can point to the process, you know, the patient has to affirmatively request it in order to get the addendum. So the fact that there is an addendum in there. There isn't a filled out request form. You know, that could support the idea that the patient, in fact, didn't request the form and therefore the reviewer shouldn't expect to find an executed form in the medical record.
Meg Pekarske	Yeah and I think that that's helpful. And I think in terms of, you can also in your EMR, because most people have EMR that has upon admission, you know, certain things are being filled out. So oftentimes the initial assessment is happening at the same time they're electing. But you know, that has a place that says "discuss with patient via addendum" and then they can check that similar to like I assessed their ADL functions" or you know, whatever. I mean it's sort of built in, similar to your assessment or it might be this way documenting the discussion aspect in addition to the request aspect, but I think that what is, what you don't want to do that I think can just be fraud with user error is you don't systematize it. And every nurse sort of does it differently. Like sometimes a document that I had a discussion in my notes. Sometimes it's in like, intake notes. Sometimes it's like in the order section. I mean, I think that if you're not

Speaker	Statement
	clear where this is going to be documented, how it's going to be documented and the process for requesting it, I think it's going to be very challenging. And I think it's super important too is having a method by which these time frames are triggered because that is the other sort of gotcha here, right? You don't have forever to do this so once the clock starts ticking, and so, having something that starts that clock then you can process through your system. And so I expect there's going to be a lot of error ability in the industry about how they do this. So the things we're just talking about are sort of food for thought. But how do you work through that to make sure that if you don't provide it in the time frame and why don't you talk about what those time frames are, Andrew?
Andrew Brenton	So there are two different time frames and it kind of depends on when the addendum is requested and by whom. So, if the patient or a representative requests the addendum at the time of election, which means the effective date of the election, then the hospice has 5 days to provide that. If the patient or representative or non-hospice provider or a Medicare contractor requests the addendum at any date after the effective date of the election, then the hospice must provide the addendum within 72 hours. And Meg, to kind of further your point, I think there's some additional areas where, you know, a policy, or some sort of systemized workflow can really come in handy. We already talked about, you know, using that to document whether the patient requests an addendum. I think another area, we kind of talked about this earlier on the outset, kind of having a process for documenting that, you know, you attempted to get the patient to sign the addendum but again, CMS didn't provide guidance on what happens if the patient just refuses to sign the addendum. So again here, there's kind of room to kind of create policies – to create some sort of infrastructure. You know you could have a policy that essentially says if you don't get the addendum after day one, that you're going to follow up using this method. You know, if you still don't have it after a second day, maybe you follow up with a different method. You know, if you call, you could maybe email or visit the patient. Just to have some sort of formal process that you're going to follow every time to avoid, you know, admittedly probably rare scenario that the patient actually requests the addendum and then doesn't sign it. Than you can even kind of consider you know, language in these communications, you know, "we understand that you've received this. Please let us know if you have any questions." You know, kind of putting maybe the onus of it on the patient to come back to you if they have any questions or have them communicate why maybe they're delaying sending those back. You know, just to kind of have sort of some check-ins built in and documentation built in. I think that might be helpful going forward.

Speaker	Statement
Meg Pekarske	Well and I think a critical point here is, you know, the heartburn that people have around well how is this going to impact my payment. You know, what amount of payment, when does it start, all this different stuff – these unknowns. I mean, I do think that the flexibility and lack of line drying that CMS is doing and saying, oh, we're not going to state that there's one way to do this I think is helpful. And so obviously it could be challenging if different MACs interpret things differently and I think that you know, if that comes to pass obviously, then there's need for advocacy and all that stuff. But I think that, and maybe this is me just being bright-sided here, but using that opportunity that they're not saying, there's only one way to so this in terms of documenting these things because I think there has to be some level of appreciation that you as a hospice can only do what you can do. Now us saying, "oh we didn't get it back" but we have no evidence that we tried to do that and then again, I mean this is something that you'd want to develop. Like is there a letter that says something about like they, you know, unless we hear otherwise we acknowledge, understand, that you're acknowledging that you've received it or something. It's sort of like, how do you document the absence of something? But I think it's exactly what you've said. Memorialize these attempts and then you know, is there some closeout communication or something that sort of memorializes that. And another area when we talk about don't know what aspects of the addendum are going to be considered material to payment. Like, I have the wrong medical record number on there by accident. I switched the – transposed some numbers, but everything else is right. You know, we can think of the continuum but another one that comes up is, especially if someone requests this on the front end, I mean, your information is only as good as the information you get from the patient and the caregiver about the medications that they are on. And so might there be something on your form that talks about the pay? This is based on the information that was, you know, to the best of our knowledge or something, that was provided by you, the patient and your caregiver and stuff. And so, cause I think that that's a challenge that we have I think as hospices in general. We're usually coming in where there's been a dramatic change or pretty significant event. And so there's a lot of moving parts and we can do our very best but perhaps there's one medication that is missing. Like, oh, you didn't tell me about your Vitamin D so I didn't include that. And so anyway, I think there's just I guess we're planting seeds here – not that this is the end all/be all or you know, these ideas are the best ideas. It's just food for thought that see the flexibility that is allowed there as you noted by CMS and its commentary by saying – I'm not going to say that you must do it this way and I think part of our listeners are like, but I want to know exactly which is the way to do that. And I think we, as lawyers, sort of, we like that there's some flexibility so you can make some arguments. And the fact that there isn't one way can actually be

Speaker	Statement
	very helpful. It's sometimes harder to argue when a line has been drawn in the sand and we're on the wrong side of that line. And we obviously make creative arguments all the time but I mean I think it's something that people need to embrace and then say, but how am I going to prove – because a lot of this is proving the negative. Like how do I prove that they didn't want it. How do I prove that like, you know, this is only as good as the information I have. How do I prove what I didn't know? Right?
Andrew Brenton	Right. Right. I think that's a great point. And kind of drilling down a bit specifically on this list of unrelated items, conditions, drugs, etc. I think it's important also to remember that what you need to include on the addendum are conditions, items, services, drugs that are unrelated to the patient's terminal illness or related conditions. And that the hospice is not covering for that reason. Notice though that what you don't have to include are conditions, items, services, drugs that are related to the terminal illness, related conditions. But that the hospice, nevertheless, is not covering because they're not part of the care plan. So this isn't - the addendum isn't sort of a list of everything in the universe that the hospice isn't covering. It really is talking specifically about those things that are not being covered because they're unrelated.
Meg Pekarske	Exactly right.
Andrew Brenton	Important piece.
Meg Pekarske	Yeah. I think that's a really important piece and I think I would caution folks about, oh well, I'll just be more inclusive. And include all this stuff and use this addendum to communicate a bunch of information that's not required to be communicated in this fashion. Sort of like how we talked about people's election forms have gotten bloated over the years because you just add on to it as a means of communicating things as opposed to saying, this particular form is intended to meet this particular legal requirement. And I embrace the flexibility you have to communicate other things in different ways, right? And so I think that that's a really excellent point. Because it's something that both obvious things but I think things that are overlooked. Well it doesn't apply to things that are related but not medically necessary. It also doesn't, you know, you don't have to memorialize on the election form whether or not you're requesting that document. That's a big thing too. You know? And so these, and maybe it's just we're lawyers so we're nitty like this, but I think that those are really important things to pay attention to and not overpromise. So you know, different context but we're helping folks with plans of correction, we ought to say, don't overpromise. Do what you need to do to fix this. And you may do 10 other things because it's a

Speaker	Statement
	good idea and you want to do that, but you don't have to and don't do more than you need to essentially meet the goal of the election statement or the addendum. And so I think that's really important. And I think at this point we don't have any wisdom on, you know, the potential impact on payment like which aspects of the addendum, if there's something that's in error or incomplete, how is that going to impact payment? Will it impact payment? How much? How do you correct it? I mean, these are some open questions but I would still harken back to the very beginning of my analogy with the filter down like, how many people are really going to request this? And again, maybe you're just catching me on a very bright-sided day, Andrew. But I mean I do think that there are some opportunities to not, you know, think that every single patient in program, I'm going to have to produce an addendum for. I mean, obviously this work we do anyway. But I think that having to produce an addendum is a totally different thing. Right? Because it's got all these elements. It's a condition of payment. So obviously we're going to continue to document everything that's related and unrelated and all of those things. It's just what we're focused on is when is this required to be memorialized in this certain way and be provided to the patient in this particular time frame? And then all these other things. So Andrew, as we close out here, any other things you wanted to share? Insights?
Andrew Brenton	I mean, yeah. I guess just on this last point of not knowing a lot or not having a lot of guidance on the repayment impacts. You know, I think I was particularly disappointed to see that CMS didn't articulate standards here even though notwithstanding what you were saying earlier about how sometimes the lack of standards or flexibility can be helpful. But really we don't really know kind of to your point – like how do you keer noncompliance? You know? Is the failure to provide the addendum, is that going to be created similarly to providing a late addendum or providing an addendum that doesn't have one or more of the nine required elements? So I think we'll probably, to a large extent, need to see kind of how claims are processed on post-payment review. Kind of see how the MACs are interpreting this through kind of real-life audits. But you know, CMS, they did commit to giving us guidance on this issue and they didn't. They say that they are having ongoing discussions with the MACs but again, have not actually put forth any guidance that we can kind of sink our teeth into. So I guess yeah, that's sort of my kind of closing thoughts. And maybe not as on the bright side as yours.
Meg Pekarske	Yeah. I was going to say. You're the yin and I'm the yang or whatever. And I don't know what's the white and black. If it's yin or yang or whatever.

Speaker	Statement
Andrew Brenton	Oh I don't know either.
Meg Pekarske	I will take being bright-sided today and the expansion – the expansiveness of not being able or having to do it a certain way. That there's lots of different ways you can prove compliance. That's where I'm going to leave. This is recorded for posterity so if there's any, you know, next time not feeling so bright-sided, you can remind me of this recording for all time here. And so again, I think Andrew and I don't have all the answers but I think hopefully folks find this helpful in at least prompting some thoughts and also working through your organization. What is it that I absolutely have to do versus, you know, what are other things I can be doing. And sort of living in that flexibility and what works. And don't overpromise. Don't use things for other purposes and all that stuff. I mean I think we shared some really helpful comments. And so we will be providing the sample addendum and election statement along with some other handouts on the post for this podcast but, Andrew, this was fun.
Andrew Brenton	Yeah. It was fun.
Meg Pekarske	And we get it out before October 1st . So hopefully people can actually give our stuff some food for thought and then we can help folks. That's what we're here to do. So anyway, Andrew, thanks for your time.
Andrew Brenton	Oh yeah, thank you.
Meg Pekarske	I look forward to next time.
Andrew Brenton	Yeah. Absolutely.
Meg Pekarske	Well that is it for today's episode of Hospice Insights: The Law and Beyond. Thank you for joining the conversation. To subscribe to our podcast, see our website at huschblackwell.com or sign up wherever you take your podcasts. Until next time, may the wind be at your back.