



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

Date: February 10, 2026

DAL: DACF 26-09
DHCBS 26-03

Subject: Provision of the Hospice Benefit in Assisted Living Programs

Dear Adult Care Facility Administrator and Hospice Providers:

Historically, the risk of duplication of the hospice and the Medicaid Assisted Living Program benefit packages has resulted in inconsistent provision of hospice services to Assisted Living Program participants as illustrated in the Department of Health's ("Department's") November 2002 Administrative Directive 02 OMM/ADM-6, entitled "Provision of Hospice Care in Adult Care Facilities and Assisted Living Programs," and Dear Administrator Letter HCBC-07-21, "Roles and Responsibilities When Hospice Provides Services in an Adult Care Facility." The Department has worked holistically to clearly delineate between the hospice and Assisted Living Program benefits based on industry feedback, recent federal and State audit outcomes, and the New York Medicaid State Plan.

Though concepts of these historical guidance documents remain largely in effect today, and because the Assisted Living Program and hospice providers provide distinct yet often complementary services, this correspondence clarifies that, effective immediately, Medicaid-eligible Assisted Living Program participants may access the Assisted Living Program and the hospice benefit and services, and Medicaid may pay for the services of each, as appropriate, pursuant to collaborative care planning between, and clear documentation by, both the Assisted Living Program and hospice providers, as described herein. Moreover, an Assisted Living Program may accept a resident or prospective resident who receives the hospice benefit and services if the individual meets the Assisted Living Program's regulatory admission and retention standards at the time of admission; however, consideration should be given to the ability of the Assisted Living Program to meet the resident's needs as their terminal condition progresses.

Non-Covered Items, Services, and Drugs

When an Assisted Living Program participant elects hospice, the hospice provider will complete a plan of care and form DOH-5778. The form allows the hospice provider to document its delineation of the items (including durable medical equipment), services and drugs that are unrelated to the hospice beneficiary's terminal illness and therefore not the responsibility of the hospice provider, as well as those hospice-excluded services such as personal care delivered by personal care aides. When applicable, hospice-covered home health aide service information (i.e., hours of aide care and aide care plan) must be clearly delineated on the DOH-5778 and incorporated into the Assisted Living Program participant's care plan and case management records.

The hospice provider must share the form with the Assisted Living Program and the Assisted Living Program must incorporate the form into its records to ensure appropriate care

planning throughout the duration of the Assisted Living Program participant's hospice care. The Assisted Living Program should be prepared to provide the completed DOH-5778 document within the complete care plan and case management documentation upon request of the Department and/or other entities for purposes of audit and/or surveillance activities.

Role of the Assisted Living Program

The Assisted Living Program is required to maintain compliance with existing Assisted Living Program license-related policies, which remain unchanged, and governing regulatory requirements outlined at Title 18 of New York Codes, Rules and Regulations at Parts 487, 488, 490, 494, and 505. This includes, but is not limited to, supervision, food service, case management, satisfaction of Class 3A Institutional Dispenser Limited licensee expectations, and the provision of personal care services through a Licensed Home Care Services Agency or skilled services delivered through a Certified Home Health Agency contracted with the Assisted Living Program. Additionally, as subject to the Medicaid State Plan benefit package and applicable State regulations and policies, the Assisted Living Program operator is solely responsible for room, board, and housekeeping, and continues to maintain financial responsibility for the Assisted Living Program services outlined in regulation that are not billable to Medicare or Medicaid or covered by the hospice benefit, including personal care delivered by personal care aides, Personal Emergency Response System and Adult Day Health Care.

The Assisted Living Program remains responsible for providing the Assisted Living Program participant with ongoing assistance with the Activities of Daily Living; however, the hospice provider may provide supplemental personal care services through the use of a home health aide when related to the Assisted Living Program participant's terminal illness and as agreed upon and documented by the hospice provider.

Most nursing services will be provided by the hospice provider; however, the Assisted Living Program must conduct, or arrange to conduct, the requisite Uniform Assessment System New York within the required timeframes. Further, in any instance in which an Assisted Living Program participant needs nursing services unrelated to their terminal illness, the service provider must be collaboratively determined between the Assisted Living Program and the hospice provider. If the determination is that the Assisted Living Program will provide the service, the service must be provided by the appropriate staff of the Certified Home Health Agency or the Licensed Home Care Services Agency associated with the Assisted Living Program, and the determination must be clearly documented in the Assisted Living Program participant's care plan and case management record, and the hospice provider's DOH-5778.

Physical, occupational, and speech therapy unrelated to the Assisted Living Program participant's terminal illness must be arranged by the Assisted Living Program with a community provider in close consultation with the hospice provider. Durable medical equipment and supplies related to the Assisted Living Program participant's terminal illness will be provided by the hospice and be documented by the hospice on form DOH-5778. Durable medical equipment and supplies unrelated to the terminal illness that relate to the Assisted Living Program participant's general condition must be provided by the Assisted Living Program, as required by regulation, and be documented by the hospice on form DOH-5778.

As a Medicaid-enrolled Adult Care Facility, the Assisted Living Program must maintain its regulatory requirements regarding resident grievances and ensure a method to ensure that the Fair Hearing option is made available to the Medicaid-eligible Assisted Living Program participant.

For reference, instructions for Medicaid beneficiaries to request a Fair Hearing are available online at <https://otda.ny.gov/hearings/request/>.

The provision of hospice care and services does not obviate the expectation for assistance with the self-administration of medication or other requirements associated with the Assisted Living Program's regulatory medication management services, including the safeguarding of controlled substances. For that reason, it is critical that the Assisted Living Program and hospice provider clearly identify the medications for which the hospice provider is responsible on form DOH-5778 and in the Assisted Living Program participant's care plan, at minimum. Similarly, it is important to communicate hospice status with the Assisted Living Program participant's prescriber/s so that interdisciplinary decisions about care and pharmacological interventions can be explored, appropriately documented, and effectuated. Please understand that an Assisted Living Program resident may continue to reside in the Assisted Living Program and receive hospice care when they can no longer participate or receive assistance with the self-administration of medication **only** to the extent that they have designated caregivers available to administer their medications. This means that when a resident loses the ability to self-administer medication, the resident's family or friend, or volunteer, or a formal caregiver provided by the hospice provider, must be available to assist the resident with medication administration as appropriate to their skillset. Thus, the availability of caregivers is an important discussion between the Assisted Living Program, the hospice provider, and the Assisted Living Program participant/hospice beneficiary, so that the appropriate decisions can be made, the Assisted Living Program can continue to meet its regulatory and license-related obligations, and both the Assisted Living Program and hospice provider can optimize the individual resident's safety throughout their care pathway.

Collaborative Communication Expected

The hospice plan of care and Assisted Living Program care plan are critical documents related to provision and delineation of services and regulatory compliance. While both the Assisted Living Program and hospice provider remain responsible for individual regulatory compliance, the introduction of a service does not diminish the responsibility of either provider. To assist with this, the Assisted Living Program and hospice providers should plan for ongoing interdisciplinary collaborative communication to ensure proper service coordination within the existing scope of practice for both providers that will allow for seamless modifications as the Assisted Living Program participant's condition changes. To help meet this expectation, both the hospice provider and the Assisted Living Program must share care plan documents to assist in developing a holistic representation of the Assisted Living Program participant's needs and condition, and to determine needed services and who will provide those services, as well as to confirm ongoing regulatory compliance by both providers. As such, the Assisted Living Program is required to work with the hospice provider, and vice versa, to integrate the operationalization of all services in a manner that prioritizes the maintenance of the hospice beneficiary's/Assisted Living Program participant's health and safety.

Questions


Questions may be referred to the hospice provider directly, the Hospice Program within the Division of Home Care Quality and Surveillance within the Center for Home and Community Based Services at homecare@health.ny.gov, or to the Division of Adult Care Facility and Assisted Living Surveillance at acinfo@health.ny.gov.

We greatly appreciate the participation of industry representatives in establishing solutions to allow this important service in a dignified manner. We thank Assisted Living Program providers for their ongoing commitment to their residents, especially to those navigating a terminal condition. We are also appreciative of the efforts that hospice providers extended to this important effort. Please know that Assisted Living Program providers and other caregivers may experience bereavement needs and there are caregiver support groups and other similar services available throughout New York State. Information about those services can be obtained from the hospice provider, through [New York Connects](#), or by calling (800) 342-9871.

Sincerely,



KellyAnn Anderson, Director
Division of Adult Care Facility
and Assisted Living Surveillance



Mildred P. Ferriter, Director
Division of Home Care Quality
and Surveillance

Enclosure

cc: Dr. Fish
V. Deetz
C. Rodat
M. Chittenden
K. Travis
H. Hayes
K. Walker