DEPARTMENT OF HEALTH & HUMAN SERVICES

Region X
M/S RX-48
2201 Sixth Avenue
Seattle, WA 98121

October 24, 1995

DIVISION OF HEALTH STANDARDS AND QUALITY
STATE LETTER NO. 533

SUBJECT INDEX CATEGORY: 9

SUBJECT: Standing Orders Not Allowed for Home Health Agency Patients

The Health Standards and Quality Bureau (HSQB) has provided the following clarification concerning the use of standing orders in home health agencies (HHA).

Standing orders violate the intent of the regulation that physicians, not nurses, establish the plan of care for an individual patient (42 CFR 484.18). Greater physician involvement in directing patient care was the rationale for instituting physician reimbursement for HHA patient case management.

Standing orders in hospitals are focused narrowly and usually address a common clinical condition or patient complaint (i.e., relief from nausea on an oncology ward, protocol for titrating morphine after the physician has ordered the medication). Other uses of standing orders are treatments that all patients would receive, regardless of their clinical condition (such as standing preoperative orders for blood tests, anesthesia evaluation, etc.).

Such characteristics are absent in the home health environment, where requirements of care are highly individualistic. Furthermore, the acute care environment is more controlled, with greater physician oversight, than in home health.

If you have any questions, please contact Roger Monson at (206) 615-2321.

Sincerely,

Teresa Trimble

Teresa L. Trimble, Manager
Certification Improvement

2/9/96

Standing orders: discussion with Mary Vienna after faxing information from provider, examples and Region IX memo. Mary reconfirmed that HCFA central has advised region offices that standing orders are not acceptable. She indicated that the most frequent deficiency for providers is "failure to follow physician orders". Also, failure to communicate with physicians. HCFA's position is based on:
*desire to have more physician involvement
*law requiring care plan developed by physician
*individualized care plans based on patient needs (assessment)
*regulations specifiying need to inform physician of changes in patient condition
*patient safety issue
*lack of communication with MD
*MDs are being paid to take an active role in oversight of patient care, getting closely involved in management of services

Standing orders establish a care plan that is not based on assessed needs. If the patient does not exhibit the problem necessitating implementation of the standing order, then the care plan is not individualized to that patient's needs. Also, if standing orders are implemented when a patient does exhibit a new problem, may result in failure to notify MD.

BPD is looking at the issue of standing orders in all settings. NAHC has offered to participate in this project.

Telephone call to Mary Vienna @ HCFA Central generated this response.

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February 29, 1996

This is our response to our provider's letter.

Dear Mr.

I am writing in response to your letter and our subsequent conversation about "standing orders" for home health care services. After reviewing the materials, I contacted a program analyst for the division of Health Standards and Quality Bureau of the Health Care Financing Administration (HCFA) to discuss this issue. A copy of the Region X memorandum and samples of "standing orders" were sent to her for review.

HCFA stands firm by its policy that standing orders are not allowed for home health agency patients, despite the rationale presented in favor of their use. According to the HCFA representative, this policy is based on legislation and regulations which were enacted to insure quality home care services. Of prime concern is the safety of frail elderly patients, in many instances being cared for by multiple providers, who develop seemingly minor symptoms which may be significant to the attending care physician who is responsible for overall coordination of services. Specifics of HCFA's position include:

1) HCFA stated that the physician must establish the plan of care, and therefore, standing orders which are established by the agency are not acceptable. Section 1861(m) of the Social Security Act is the basis for this position:

> "home health services" are...services furnished to an individual, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician...

This requirement is also included in the Conditions of Participation, Section 484.14: "Care follows a written plan of care established and periodically reviewed by a doctor of medicine, osteopathy, or podiatric medicine."

The focus of HCFA's position is that the plan of care should be based on the patient's current status and needs. The regulatory basis for this position is Standard 484.18(a) which provides guidelines for development of plan.

2) HCFA's representative pointed out the home health agency personnel's responsibility to regularly reevaluate the patient's condition and inform the physician of any changes. HCFA maintains that if standing orders were permitted, agencies would fail to advise physicians of changes in their patient's condition. In addition, by allowing standing orders for home care services, physician would be denied the opportunity to prescribe treatment appropriate to the patient's overall status at the time that new signs and symptoms develop.

Regulations which support the responsibility of the home health agency to inform the physician of changes in the patient's status and need to alter the plan of care are: Sections 484.18(b) Periodic Review of Plan of Care, 484.30(a) Duties of the Registered Nurse, and 484.32 Therapy Service.

3) A major HCFA objective is to increase involvement of physicians in management and oversight of home care services. One step taken by HCFA to foster this involvement is through payment to physicians for care plan oversight. HCFA's representative stated that enactment of this benefit should result in willing involvement of physicians since they can be compensated for time spent communicating with home care personnel about their patient's problems and altering the plan of care.

The HCFA representative acknowledged that home health agencies may develop protocols of care and may discuss these protocols with the physician when developing or altering the plan of care for a patient. However, the inclusion of a particular protocol in the patient's plan of care must be based on existing problems or needs of the individual patient.

Although HCFA currently prohibits the use of standing orders by home health care providers, a project is underway to look at current standing order practices in all settings and determine whether there is a need to reevaluate the present policy. NAHC has offered to participate in this project.

Thank you for keeping NAHC informed about issues affecting the delivery of home care services. We hope that you will share your ideas and recommendations on how the present policy on standing orders can be improved.

Sincerely,

Mary St. Pierre
Director of Regulatory Affairs

MTS:cd