



# Senior & Long Term Care Division Community Services Bureau Home Health Policy Manual

**Title:** Hospice Policy 404  
**Section:** ELIGIBILITY FOR SERVICES  
**Subject:** Election of Hospice Services  
**Reference:** ARM 37.40.815, 42 CFR 418.24

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## FILING AN ELECTION STATEMENT

A patient who meets the eligibility requirements for the Medicaid Hospice Program must file an election statement with a Medicaid approved hospice. If the patient is physically or mentally incapacitated, his or her representative may file the election statement.

## NOTICE OF ELECTION (NOE)

➤ The hospice of choice must file the Notice of Election (NOE) with the Department within 5 calendar days of the start of Medicaid hospice services.

The NOE should be sent by FAX to 406-444-7743, Attn: Hospice Program Manager, in order to ensure timely filing.

➤ **NOTE:** It is the responsibility of the hospice provider to determine the patient's Medicaid eligibility before delivering Medicaid hospice services.

## CONSEQUENCES OF FAILURE TO SUBMIT A TIMELY NOTICE OF ELECTION

➤ When a hospice fails to submit the required NOE within 5 calendar days of the start of Medicaid Services, Medicaid will not reimburse for days of hospice care from the start of the hospice services until the date the NOE is received by the Department.

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## **WAIVER OF CONSEQUENCES**

The Department may waive the consequences of failure to submit a timely-filed NOE. The Department will determine if a circumstance encountered by the hospice is exceptional and qualifies for waiver of the consequence. A hospice must fully document and furnish any requested documentation to the Department for a determination of exception.

An exceptional circumstance may be due to, but is not limited to the following:

1. Fires, floods, earthquakes, or similar unusual events that inflict extensive damage to the hospice's ability to operate;
2. A Department system issue that is beyond the control of the hospice;
3. A newly Medicaid-certified hospice that is notified of that certification after the Medicaid certification date, or which is awaiting its user ID from the Department; or
4. Other situations determined by the Department to be beyond the control of the hospice.

## **CONTENT OF NOE STATEMENT**

The Content of the NOE must include the following:

1. Identification of the particular hospice and of the attending physician that will provide care to the patient. The patient or representative must acknowledge that the identified attending physician was his or her choice;
2. The patient's or representative's acknowledgement that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the patient's terminal illness;
3. Acknowledgement that certain Medicaid services, as set forth in the "Waiver of Other Benefits", section of this policy, are waived by the election;

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4. The effective date of the election, which may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement; and
5. The signature of the patient or representative.

#### **DURATION OF ELECTION**

An election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the patient:

1. Remains in the care of a hospice;
2. Does not revoke the election; and
3. Is not discharged from the hospice under the provisions of Hospice Policy 406.

#### **WAIVER OF OTHER BENEFITS**

For the duration of an election period of hospice care, a patient waives all rights to Medicaid payments for the following:

1. Hospice care provided by a hospice other than the hospice designated by the patient (unless provided under arrangements made by the designated hospice); and
2. Any Medicaid services that are related to the treatment of the terminal condition for which hospice was elected or a related condition or that are equivalent to hospice care except for services:
  - a. Provided by the designated hospice;
  - b. Provided by another hospice under arrangements made by the designated hospice; and
  - c. Provided by the patient's attending physician if that physician is not an employee of the designated hospice or

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receiving compensation from the hospice for those services.

### **RE-ELECTION OF HOSPICE BENEFITS**

If an election has been revoked in accordance with Hospice Policy 407, the patient (or his or her) representative, if the patient is mentally or physically incapacitated), may at any time file an election, in accordance with this section, for any other election period that is still available to the patient.

### **CHANGING THE ATTENDING PHYSICIAN**

To change the designated attending physician, the patient (or representative) must file a signed statement with the hospice that states that he or she is changing his or her attending physician.

1. The statement must identify the new attending physician, and include the date the change is to be effective and the date signed by the patient (or representative);
2. The patient (or representative) must acknowledge that the change in the attending physician is due to the patient's choice; and
3. The effective date of the change in attending physician cannot be the date the statement is signed.