

# Clarifications on MFT/MHC in Hospice

Source: NAHC, January 25, 2024

The [Consolidated Appropriations Act of 2023](#) (CAA 2023) established a new Medicare benefit category for marriage and family therapist (MFT) services and mental health counselor (MHC) services furnished by and directly billed by MFTs and MHCs, respectively. Through the CAA 2023 these services were added to covered hospice care services under section 1861(dd)(2)(B)(i)(III) of the Act and section 1861(dd) of the Act was revised to state that the hospice interdisciplinary group (IDG) is required to include one social worker, one MFT, or one MHC. This raised many questions in hospices around how to incorporate the MFT/MHC into the IDG and how these services intersect with medical social services.

The [CY2024 Payment Policies for Physicians final rule](#) contained regulations designed to implement the provisions of the CAA, 2023 which became effective January 1, 2024. Specifically, the Centers for Medicare & Medicaid Services (CMS) revised regulations at §§ [418.56](#) and [418.114](#) to permit MFTs or MHCs to serve as members of the hospice IDG and updated the Medicare Benefit Policy Manual, Chapter 9 – Coverage of Hospice Services Under Hospital Insurance (see [Transmittal 12400/Change Request \(CR\) 13437](#)). However, only two sections of the Manual were updated, 40.1.1 Nursing Services and 40.2.1 Continuous Home Care, and this raised even more questions.

NAHC submitted these questions to CMS, some of which were answered in an Open Door Forum(ODF) held by CMS in November. A recently posted [Q&A document](#) lays out what was discussed in the ODF and provides some clarifications for hospice and NAHC received responses to some of our questions.

The key points for hospices to know at this time are:

- The hospice interdisciplinary group (IDG) is required to include one social worker, one MFT, or one MHC (but not all three). Note that a hospice must employ a SW as medical social services furnished by a qualified social worker are considered a core service under the Condition of Participation (see § [418.64\(c\)](#))
- Hospices are *not* required to hire an MFT or MHC. However, if they choose to hire an MFT or MHC, the MFT and MHC must be direct employees (W-2 or volunteer), except for temporary exceptional circumstances, and may be employed full time, part time, or per diem. This is because the MFT and MHC provide counseling services and these are considered core services (see § [418.64\(d\)](#)).

- Hospices will need to consider state rules and regulations as well as the new federal regulations. For instance, state rules and regulations may not recognize the MFT/MHC as part of the hospice IDG. There may also be state definitions for MFT and MHC that are different than the federal definitions at § 410.53 and § 410.54, respectively. When state and federal requirements differ, hospices must observe the strictest of the two.
- MFT and MHC services are covered as a part of the Medicare Hospice Benefit (MHB) and are not separately billable or payable. Likewise, an MFT/MHC does not have to be enrolled in Medicare in order to deliver these services for a hospice.
- CMS has not developed identifying codes for the MFT and MHC services, so these services are not recorded on the hospice claim.
- The MFT and MHC services cannot be billed as part of the Service Intensity Add-on (SIA).
- Relative to whether an MFT or MHC can, as a member of the IDG, complete the psychosocial portion of the comprehensive assessment we received the following from CMS. Please note that it is necessary to carefully review the state requirements and state scope of practice for MFT and MHC before having these disciplines complete the comprehensive assessment:
  - The requirement at 418.54(b) states the IDG must complete the comprehensive assessment. Hospices have a choice to place a SW or MFT or MHC on the IDG. The SW, MFT or MHC are able to conduct a psychosocial assessment in accordance with their state scope of practice.
  - SW, MFTs, and MHCs each have their own state scope of practice and licensure requirements. While SW, MFT or MHC may be able to conduct a psychosocial assessment, if permissible by their state, it is the assessed needs of the patient that drives the services that patient receives.
  - Regardless of the official member of the IDG (SW or MFT or MHC), CMS encourages the other disciplines providing care to the patient, if applicable, to participate in IDG meetings and provide their clinical perspective in the development and update of the comprehensive assessment
    - **Example:** If the MFT or MHC is the member of the IDG, the MFT or MHC is responsible to conduct the psychosocial portion of the assessment, if permissible by their state scope of practice and licensure. If the assessed needs of the patient fall into the scope of practice of the social worker, then it is expected that the social worker would be providing services to the patient to meet the patients social work needs. This information would be documented and communicated (per the hospices policy) in the patients record and shared with the official IDG member, in this case the MFT or MHC.

- Similarly, if the social worker is the official member of the IDG, the SW would be responsible for the psychosocial section of the assessment. If the patient has an assessed need for therapy/counseling services, the hospice may choose to utilize an MFT or MHC to meet the therapy/counseling patient need. It is expected that the MFT or MHC would document and communicate the information (per hospice policy) in the medical record and share with the official IDG member, in this example the social worker.

CMS has stated that it will provide updated interpretive guidance for the utilization of MFTs and MHCs; however, a timeframe for when this guidance will be released has not been provided. We do not anticipate seeing this in the immediate future as CMS is currently working on writing the guidance after which time it needs to go through an approval process before being released.