DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Center for Medicaid and State Operations
7500 Security Boulevard
Baltimore, MD 21244-1850

August 13, 1998

Dear State Medicaid Director:

This letter is another in a series of letters providing guidance on the implementation of provisions contained in the Balanced Budget Act of 1997 (BBA). Provisions in Chapter 4 of the BBA relating specifically to hospice care initially appear only to affect Medicare, but also have an impact on the Medicaid program. These provisions are intended to help Medicare and Medicaid pay more efficiently for this needed care. For instance, to help stem waste, fraud and abuse, hospice care must now be billed based on the geographic location in which the service is rendered, i.e., the patient's home versus a hospice headquarters location.

This letter describes how these provisions may change your Medicaid program. If you have further questions about changes in the hospice rules, please contact your HCFA regional office.

BBA Changes to the Hospice Benefit

BBA Chapter 4 provisions that apply to Medicaid, and those that do not, are outlined below.

The following sections of the BBA **do apply** to the Medicaid hospice program:

Section 4441, Payments for Hospice Services Section 4442, Payment for Home Hospice Care Based on Location Where Care is Furnished Section 4444, Other Items and Services Included in Hospice Care Section 4445, Contracting with Independent Physicians or Physician Groups for Hospice Care Services Permitted

The following sections of the BBA **do not apply** to the Medicaid hospice program:

Section 4443, Hospice Care Benefits Periods Section 4446, Waiver of Certain Staffing Requirements for Hospice Section 4447, Limitation on Liability of Beneficiaries for Certain Hospice Coverage Denials Section 4448, Extending the Period for Physician Certification of an Individual's Terminal Illness

It is important to note that while we have categorized section 4443, which established new benefit periods for Medicare hospice, as not applying to the Medicaid hospice program, States may adopt these new Medicare benefit periods if they choose to do so. The choice to follow either the new Medicare hospice care benefit periods (two 90-day periods followed by an unlimited number of 60-day periods) or to establish a State benefit period is authorized under section 1905(o)(2)(B) of the Social Security Act (the Act). States have generally found it easier to administer the Medicaid hospice benefit when the periods for the benefit are the same as under Medicare.

We have received a number of specific inquiries regarding section 4442 which establishes a Medicare payment rule for hospice care provided in the home. Hospice care rendered in an individual's home is paid based upon either a routine home care day rate or a continuous home care day rate. Before enactment of the BBA, adjustments to the wage component of these rates were set based on the location of the hospice. The BBA, however, requires hospices to now submit claims for payment for hospice care furnished in an individual's home based upon the geographic location in which the care is furnished. Since section 1902(a)(13)(D) of the Act requires the Medicaid payment methodology for hospice care to be determined using the same methodology as is used for Medicare, this new BBA hospice payment requirement applies to Medicaid as well. To satisfy this requirement, hospice providers must identify in the Medicaid claim the geographic location of the home in which the hospice care is furnished. This information will be determinative in defining the rate of payment.

In order to determine the rate of payment for hospice care furnished in a home under Medicaid, States should refer to the attached Federal Register dated August 8, 1997, for the Medicare hospice wage index adjustments by geographic location. These adjustments are also to be used for adjusting the wage component of the Medicaid payment rates for hospice care provided in the home ($65.89 for routine home care and $384.23 for continuous home care), effective October 1, 1997 through September 30, 1998. States should make the necessary retroactive billing adjustments for hospice claims billed and/or paid during this time period.

We have tried to distinguish between required actions for State hospice benefit programs and discretionary actions. As noted, if you have any further questions, please contact your local regional office.

Sincerely,
/s/
Sally K. Richardson Director

cc: All Regional Administrators, HCFA All Associate Regional Administrators for Medicaid and State Operations, HCFA Lee Partridge American Public Human Services Association Joy Wilson National Conference of State Legislatures Jennifer Baxendell National Governors' Association