

Office of Clinical Standards and Quality/Survey & Certification Group

Ref: S&C: 12-29-ALL

DATE: May 11, 2012

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Publication of Final Rule “Medicare and Medicaid Program; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction CMS-9070-F”

Memorandum Summary

- **Final Rule:** The final rule CMS-9070-F is on display and will publish on May 16, 2012. The rule will be effective July 16, 2012.
- **Overview:** The final rule increases the ability of health care professionals to devote resources to improving patient care, by eliminating or reducing requirements that impede quality patient care, or that divert providing high quality patient care.
- **Background:** In Executive Order 13563, “Improving Regulations and Regulatory Review”, the President directed each executive agency to establish a plan for ongoing retrospective review of existing significant regulations, to identify those rules that can be eliminated as obsolete, unnecessary, burdensome, or counterproductive or that can be modified to be more effective, efficient, flexible, and streamlined.

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On October 24, 2011, the Centers for Medicare & Medicaid Services (CMS) published a proposed rule that proposed reforms in CMS regulations that were identified as unnecessary, obsolete, or excessively burdensome to health care providers and beneficiaries.

The final rule “Medicare and Medicaid Program; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction” is currently on display and will publish on May 16, 2012. The rule will be effective on July 16, 2012.

The final rule creates a number of regulatory changes. Listed below are a few highlights:

- Limits mandatory compliance with the Life Safety Code to those End Stage Renal Disease (ESRD) facilities located adjacent to high hazardous occupancies and clarifies that the requirement for sprinklers in facilities housed in high rise buildings is intended to be applicable to those buildings constructed after January 1, 2008.
- Removes the detailed list of emergency equipment that must be available in an Ambulatory Surgical Center's (ASC) operating room. The current list includes outdated terminology as well as equipment that are not suitable for ASCs that furnish minor procedures that do not require anesthesia.
- Adds a requirement that a certified Intermediate Care Facility for Individuals who are Intellectually Disabled (ICF/IID) must be surveyed, on average, every 12 months with a maximum 15-month survey interval. This action provides States with more flexibility related to the current process.

The Federal Register display version of CMS-9070-F is available at:

<http://www.ofr.gov/inspection.aspx>

Press Release is available at:

<https://www.cms.gov/apps/media/press/release.asp?Counter=4362&intNumPerPage=10&checkDate=&checkKey=&srchType=1&numDays=3500&srchOpt=0&srchData=&keywordType=All&chkNewsType=1%2C+2%2C+3%2C+4%2C+5&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date>

Fact Sheet is available at:

<https://www.cms.gov/apps/media/press/factsheet.asp?Counter=4363&intNumPerPage=10&checkDate=&checkKey=&srchType=1&numDays=3500&srchOpt=0&srchData=&keywordType=All&chkNewsType=6&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date>

CMS-9070-F has also been posted to the CMS website and is available at:

<http://www.cms.gov/Regulations-and-Guidance/Legislation/CFCsAndCoPs/Spotlight.html>

Effective Date: July 16, 2012.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management