

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 Two Final Rules “Medicare and Medicaid Program; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction CMS-9070-F” and “Medicare and Medicaid Programs; Reform of Hospital and Critical Access Hospital Conditions of Participation CMS-3244-F”

Memorandum Summary

- **Final Rule:** The final rules CMS-9070-F and CMS-3244-F are on display and will publish on May 16, 2012. The rules will be effective July 16, 2012.
- **Overview:** The final rules increase 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 two proposed rules that proposed reforms in CMS regulations that were identified as unnecessary, obsolete, or excessively burdensome to health care providers and beneficiaries.

The final rules “Medicare and Medicaid Program; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction” and “Medicare and Medicaid Programs; Reform of Hospital and Critical Access Hospital Conditions of Participation CMS-3244-F,”

currently are on display and will publish on May 16, 2012. The rules will be effective on July 16, 2012.

The final rule CMS-3244-F makes a number of revisions to the hospital and CAH CoPs. Listed below are a few highlights:

- Increases flexibility for hospital systems by allowing one governing body to oversee multiple separately certified hospitals.
- Requires that all eligible medical staff candidates, including Nurse Practitioners, other types of advance practice registered nurses, and Physicians' Assistants, must be reviewed by the medical staff allows for the granting of all the privileges, rights, and responsibilities accorded to appointed medical staff members, consistent with State law.
- Supports and encourages patient-centered care by allowing hospitals the flexibility to permit a patient or his or her caregiver/support person to administer certain medications (both those brought from the patient's home and those dispensed by the hospital)
- Allows hospitals to use a single, interdisciplinary care plan rather than requiring separate nursing care plan.
- Encourages the use of evidence-based pre-printed and electronic standing orders, order sets, and protocols that ensure the consistency and quality of care provided to all patients by allowing nurses the ability to implement orders that are timely and clear.
- Allows hospitals to determine the best ways to oversee and manage outpatients by removing the requirement for a single Director of Outpatient Services.
- Allows CAHs the flexibility to provide required services through contracted staff.

The final rule CMS-9070-F creates a number of regulatory changes. Listed below are a few highlights pertinent to survey and certification:

- 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.

Detailed interpretive guidelines are under development and will be released for each provider and supplier type affected.

The Federal Register display versions of CMS-9070-F and CMS-3244-F are 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 and CMS-3244-F have 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