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Center for Clinical Standards and Quality/Quality, Safety & Oversight Group

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DATE: May 3, 2019

TO: State Survey Agency Directors

FROM: Director
Quality, Safety & Oversight Group

SUBJECT: Guidance for Hospital Co-location with Other Hospitals or Healthcare Facilities
(Revised)

Memorandum Summary

- CMS is committed to providing the information hospitals need to make decisions about how they partner with other providers in the health care system to deliver high-quality care. We are releasing the final guidance for the evaluation of compliance with Medicare Conditions of Participation (CoPs) related to shared space and services for hospitals co-located with other hospitals or health care entities.
- State Operations Manual Appendix A will be updated to include co-location guidance as a component of the hospital survey process.

Background

CMS takes our responsibility seriously to oversee the quality of care for all Americans who seek care from a hospital. The Medicare CoPs are a key way CMS exercises that responsibility. Under the CoPs, hospitals may co-locate with other hospitals or health care entities, meaning they share certain common areas on the same campus or building.

While CMS wants to allow flexibility in these partnerships, we want to do so while simultaneously protecting the safety and quality of care for patients. In this guidance, CMS seeks to provide clarity about how CMS and State Agency surveyors will evaluate a hospital's space sharing or contracted staff and service arrangements with another hospital or health care entity when assessing the hospital's compliance with the CoPs.

Discussion

Hospitals have increasingly co-located with other hospitals or other healthcare entities as they seek efficiencies and develop different delivery systems of care. Co-location occurs when two Medicare certified hospitals or a Medicare certified hospital and another healthcare entity are located on the same campus or in the same building and share space, staff, or services.

All co-located hospitals must demonstrate independent compliance with the hospital CoPs. This guidance clarifies how hospitals may organize shared spaces, services, personnel, and emergency services to meet regulatory requirements. When hospitals choose to co-locate, they should consider the risk to compliance through any shared space or shared service arrangements.

The SOM Appendix A will be revised to include the co-location guidance as a component of the hospital survey process. Surveyors are expected to use this guidance to assess a hospital's compliance with the CoPs when they are co-located with another Medicare certified hospital or health care entity.

Contact: HospitalSCG@cms.hhs.gov

Effective Date: Immediately This policy should be communicated with all survey and certification staff, their managers and the CMS Location training coordinators of this memorandum.

/s/

David R. Wright

Attachment(s)-Guidance Related to Hospital Co-location with Other Hospitals or Healthcare Facilities

Co-located Hospitals Survey Module

Surveying Hospitals Co-Located with Other Hospitals or Healthcare Facilities

This guidance is for surveys of a hospital co-located with another hospital or healthcare provider for determining compliance with the Medicare Conditions of Participation (CoPs) for hospitals.

Hospitals can be co-located with other hospitals or other healthcare providers. These hospitals may be located on the same campus or in the same building used by another hospital or healthcare facility. The hospital may be co-located in its entirety or only certain parts of the hospital may be co-located with other healthcare facilities. Common examples of co-location include:

- *One hospital entirely located on another hospital's campus or in the same building as another hospital*
- *Part of one hospital's inpatient services (e.g., at a remote location or satellite) is in another hospital's building or on another hospital's campus*
- *Outpatient department of one hospital is located on the same campus of or in the same building as another hospital or a separately Medicare-certified provider/supplier such as an ambulatory surgical center (ASC), rural health clinic (RHC), federally-qualified healthcare center (FQHC), an imaging center, etc.*

Note: This guidance is specific to the requirements under the hospital CoPs at 42 CFR Part 482 and does not address the specific location and separateness requirements of any other Medicare-participating entity, such as psychiatric hospitals, ambulatory surgical centers (ASCs), rural health clinics, Independent Diagnostic Testing Facilities (IDTFs), etc.

Additionally, for the purpose of this guidance, reference to "healthcare providers" does not include critical access hospitals (CAHs) due to specific distance and location requirements or private physician offices, including those that may be participating in a timesharing or leasing agreement.

Regardless of the situation, when a hospital is in the same location (campus or building) as another hospital or healthcare entity, each entity is responsible for demonstrating its compliance with all applicable Medicare and Medicaid program participation requirements.

Space

A Medicare-participating hospital is evaluated as a whole for compliance with the CoPs and is required at all times to meet the definition of a hospital at section 1861(e) of the Act. It is expected that the hospital have spaces of operation consistent with the CoPs at 42 CFR Part 482. The hospital must consider whether the hospital's spaces that are used by another co-located provider risk their compliance with these requirements. Areas of consideration when

sharing space may relate to patient rights, infection prevention and control, governing body, and/or physical environment, among others. For example, both the hospital and the co-located healthcare provider should demonstrate their compliance to protect and provide a safe environment for their patients, including but not limited to, their right to personal privacy and to receive care in a safe environment under §§482.13(c)(1) and (2), and right to confidentiality of patient records under §482.13(d).

Contracted Services

A hospital is responsible for providing its services in compliance with the hospital CoPs, which could be provided either directly or under contract or arrangement. Services, such as laboratory, dietary, pharmacy, maintenance, housekeeping, and security services are examples of services that may be contracted or provided under arrangement in a co-located hospital. Other common examples of contracted services may include food preparation and delivery services, and utilities such as fire detection and suppression, medical gases, suction, compressed air, and alarm systems, such as oxygen alarms. These services are provided under the oversight of the hospital's governing body (see §482.12(e)) and would be treated as any other service provided directly by the hospital.

Staffing

A hospital is responsible for meeting staffing requirements of the CoPs and for any of the services that the hospital provides, whether or not those staff are provided directly by the hospital or under arrangement or contract from another entity (including from healthcare facilities that are co-located with the hospital). When hospital staff are obtained under arrangement from another entity, there should be evidence that the hospital's staff are meeting the needs of patients for whom they are providing care. Additionally, the staffing must meet the statutory and regulatory requirements for the activity.

For instance, under section 1861(e)(5) of the Act and 42 CFR §482.23, a hospital must provide nursing services at all times. Specifically, the Nursing Services standard at §482.23(b) states, "The nursing service must have adequate numbers of licensed registered nurses, licensed practical (vocational) nurses, and other personnel to provide nursing care to all patients as needed. There must be supervisory and staff personnel for each department or nursing unit to ensure, when needed, the immediate availability of a registered nurse for the care of any patient."

All individuals providing services to a hospital patient, whether directly or under contract, should receive appropriate education and training in all relevant hospital policies and procedures. The training and education should be the same training that would be provided to individuals who are direct employees of the hospital so that the quality of care and services being provided is the same.

When utilizing staffing contracts, under the contracted services standard at §482.12(e) along with other applicable conditions and standards therein incorporated, the governing body is responsible for ensuring:

- *Adequacy of staff levels*

- *Adequate oversight and periodic evaluation of contracted staff*
- *Proper training and education of contracted staff*
- *Contracted staff have knowledge of and adheres to the quality and performance improvement standards of the individual hospital*
- *That there is accountability of the contracted staff related to clinical practice requirements*

With regards to medical staff, each co-located hospital would be responsible for meeting the medical staff requirements at §482.22. Where co-located hospitals are part of a multiple hospital system, §482.22(b)(4) provides requirements specific to the unified medical staff.

Emergency Services

While hospitals must provide care to patients in an emergency, hospitals are not required to have an emergency department. Under the CoP at §482.12(f)(2), hospitals that do not have emergency departments and are not identified as providing emergency services must have appropriate policies and procedures in place for addressing individuals' emergency care needs at all times.

Hospitals should have policies and procedures to address potential emergency scenarios typical of the patient population they routinely care for and ensure staffing that would enable them to provide safe and adequate initial treatment of an emergency. Policies and procedures should include (1) identifying when a patient is in distress, (2) how to initiate an emergency response (e.g., calling for staff assistance and the on-call physician), (3) how to initiate treatment (e.g., CPR and the use of an Automated External Defibrillator (AED)), and (4) recognizing when the patient must be transferred to another facility to receive appropriate treatment.

There may be times, however, when appraisal and initial treatment performed in one hospital requires an appropriate transfer of the patient to the other provider, such as a co-located facility, for continuation of care. For example, a rehabilitation hospital that is co-located with a separate acute care hospital must ensure that its rehab staff are able to recognize and provide an initial response to its patients that may be having emergencies, as specified in §482.12(f)(2). It is permissible that the rehabilitation hospital arranges to refer or transfer patients with emergency conditions to the co-located acute care hospital for care beyond initial emergency treatment (e.g. CPR and use of an AED).

If the co-located hospital being surveyed is identified as providing emergency services or has an emergency department, the hospital would be subject to the emergency services requirements (see §482.55) and must meet requirements of EMTALA. See §1867 of the Act and 42 CFR §§489.20-24.

Survey Procedures

Space

Surveyors must identify any spaces used by the hospital being surveyed and any shared spaces used by the other co-located facilities. If both facilities utilize the same space, any non-compliance found in the space being surveyed would be cited for the hospital being surveyed and could trigger a complaint in the co-located facility based on the facility's regulatory requirements. Surveyors are not expected to be evaluating spaces for co-location, but rather determining if the hospital being surveyed is in compliance with the hospital CoPs, independent of its co-located provider.

For example, a co-located hospital may be sharing a supply storage room with a co-located hospital where each hospital identifies their supplies separately within the same space. The surveyor identifies that there is a water leak in the ceiling of the room that is dripping water on to the sterile packed supplies causing a breach in the package. This would be identified as a deficiency related to physical environment and infection control for the hospital being surveyed. This could also trigger a complaint for the co-located hospital because the same deficiencies would be present in the co-located hospital.

Contracted Services

The procedures for surveying contracted services would be the same for co-located hospitals as it would be for surveying any other hospital that has contracted services, see §482.12(e).

Emergency Services

While surveying a co-located hospital, surveyors will need to determine if the hospital has an emergency department or is holding itself out as providing emergency services 24 hours a day and 7 days per week. If the hospital has no emergency department and not providing emergency services, surveyors should evaluate the hospital's compliance with the requirements described in §482.12(f)(2). If the hospital has an emergency department, surveyors will defer to the requirements for Emergency Services at §482.55 and must determine that it meets requirements of EMTALA. See §1867 of the Act and 42 CFR §§489.20-24.

Identification of Deficiency

In instances where deficiencies are identified during a survey of a hospital that is co-located with another hospital or provider, the deficiency should be cited in the same manner as in other hospital surveys. The surveyor is responsible for determining the scope and pervasiveness of the deficiency. If the deficient practice extends to the co-located provider, the surveyor must determine if the cited deficiency warrants a complaint investigation of the co-located provider. If so, then a complaint investigation will be performed. While on-site, the SA should contact their supervisor to file the complaint and seek possible authorization to conduct a complaint survey of the other co-located facility while still on-site. These would be two separate surveys with two separate survey reports. For accreditation organizations (AOs) conducting surveys, it is up to the AO as to whether it will conduct the complaint survey at that time or at a later date.