

PUBLICATION

CMS Releases New, Proposed Home Health Conditions of Participation [Ober|Kaler]

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CMS published a proposed rule on Thursday, October 9th, 2014, updating the Home Health Agency (HHA) Conditions of Participation (CoPs). The proposed rule represents the first update to the HHA CoPs since 1989. Comments are due by 5 p.m. on December 8, 2014.

According to the CMS [fact sheet](#), the proposed rule reflects an agency wide effort to respond to a changing home health industry by (1) protecting and promoting patient rights; (2) enhancing care coordination; (3) streamlining regulatory requirements; and (4) facilitating quality improvement.

Specific highlights of the proposed rule include:

- **Quality assessment and performance improvement (QAPI) program:** The proposed rule requires that each HHA develop, implement, and maintain an agency-wide, data-driven QAPI program. As stated in the proposed rule, the aim of the QAPI program is to ensure that HHAs not only “develop a program that enable[s] them to identify areas for improvement,” but also that HHAs take necessary “actions to prevent and reduce medical errors.”
- **Patient rights:** The proposed rule seeks to clarify the rights of each patient and the process for conducting patient rights violation investigations. To that end, CMS has significantly revised and expanded the CoP “patient rights” section.
- **Care coordination:** The proposed rule adds a requirement that HHAs maintain a system of communication and integration to identify patient needs, coordinate care provided by all disciplines, and effectively communicate with physicians. The requirement formalizes current HHA informal communication and coordination structures.
- **Infection control requirements:** The proposed rule expands upon existing CoP requirements that HHAs comply with “accepted professional standards and principles that apply to professionals furnishing services in a HHA,” to specifically incorporate infection control and prevention. The proposed rules would require that each HHA maintain and document a program to prevent and control infections and communicable diseases.
- **Elimination of subunits:** While the proposed rule continues to allow HHA to have branch offices, it eliminates “subunits,” concluding that the “distinction between the requirements that the parent HHA and a subunit must meet are minor.” In its fact sheet, CMS characterizes the change as allowing parent agencies to have “greater control over all of their offices by placing all locations under the leadership and direct management control of the parent agency.”
- **Removal of (some) administrative burdens:** Recognizing that existing CoPs include some unnecessary “process oriented requirement,” CMS proposes to remove several, current administrative CoP requirements such as: (a) sending a summary of care to the attending physician at least once every 60 days; (b) maintaining a group of professional personnel to advise its operation, and (c) conducting a quarterly evaluation of its program via chart reviews.

As highlighted above, CMS's proposed rule places a significant emphasis on quality of care, ensuring patient rights and facilitating care coordination. It reflects the agency's effort to require coordination of care and to ensure that patients receive, according to CMS, “the right care from the right discipline at the right time.”

Ober|Kaler's Comments

Compliance with the many elements of the new rule will require a significant dedication of time and effort by HHAs. While the proposed rule does not set forth a proposed effective date, HHAs should nonetheless consider beginning their plans for implementation of the new COPs in the near future.