

LEGAL UPDATES

PUBLISHED: MAY 29, 2012

HHS Cuts Regulations for Hospitals and Healthcare Providers

On May 10, Health and Human Services (HHS) Secretary Kathleen Sebelius announced new Conditions of Participation and rules that ostensibly will save healthcare providers \$1.2 billion in the first year by reducing unnecessary, obsolete or burdensome regulations on hospitals and other healthcare providers. Among other things, the changes:

Will increase flexibility for hospitals by allowing one governing body to oversee multiple hospitals in a single healthcare system. However, each hospital must appoint a physician from its medical staff to serve as liaison on the governing body, and increasing the number of physician directors may present problems for hospitals.

Allow critical access hospitals to partner with other providers to increase efficiency, safety and timely delivery of care of the hospital's patients.

Permit advanced practice registered nurses, physician assistants and other nonphysicians to become members of the medical staff. Note, however, that state laws governing the composition of medical staffs will still control, which may also present compliance issues with Joint Commission standards. If allied health professionals are appointed to a hospital medical staff, the medical staff must be responsible for issuing credentials and granting privileges, rights and responsibilities to the providers as opposed to a Human Resources Department or other administrative mechanisms.

Eliminate regulations deemed "obsolete," including outmoded infection-control instructions for ambulatory surgery centers, "outdated" Medicaid

qualification standards for physical and occupational therapists and similar requirements that apply to governing bodies or organ procurement organizations.

Support and encourage patient centered care that allows a patient or his or her caregiver to independently administer certain medications.

Encourage the use of evidence based, preprinted and electronic standing orders, order sets and protocols to enhance consistency and quality of care.

Eliminate the requirement that verbal orders be authenticated within 48 hours, thereby deferring to applicable state law to establish authentication time frames.

Establish as a permanent standard the temporary requirement that all orders, including verbal orders, must be dated, timed and authenticated by either the ordering practitioner or another practitioner who is responsible for the care of the patient and who is authorized to write orders.

What This Means to You

In the wake of the new healthcare framework introduced by the Affordable Care Act (ACA) and other recent laws to which the industry has been adjusting over the past year, HHS's attempt to clean-up and streamline other existing regulations represents no small effort. But, the ultimate financial benefit may not reach the agency's estimate or come without other costs. Several changes will impose additional administrative burdens on hospitals and providers, while others shift compliance standards to state laws and regulations. Affected institutions and providers should familiarize themselves with the modifications and evaluate their costs and benefits within the broader context of adjustments that are already under way. Additional savings may be achievable if these latest changes are wrapped into ongoing ACA implementation projects or can be leveraged to enhance other efficiencies or streamline processes.

Contact Info

For additional information concerning these issues or any other questions related to the healthcare industry, please contact your Husch Blackwell attorney or Curt Chase at 816.983.8254.

Husch Blackwell LLP regularly publishes updates on industry trends and new developments in the law for our clients and friends. Please contact us if you would like to receive updates and newsletters or request a printed copy.

HUSCH BLACKWELL

Husch Blackwell encourages you to reprint this material. Please include the statement, "Reprinted with permission from Husch Blackwell LLP, copyright 2012, www.huschblackwell.com" at the end of any reprints. Please also email info@huschblackwell.com to tell us of your reprint.

This information is intended only to provide general information in summary form on legal and business topics of the day. The contents hereof do not constitute legal advice and should not be relied on as such. Specific legal advice should be sought in particular matters.