New CMS Proposed Rule - Reducing Regulatory Burden For Healthcare Providers

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By: Stephanie T. Eckerle and Susan E. Ziel

On September 17, 2018, the Centers for Medicare and Medicaid Services "CMS" published a proposed rule to reduce burdensome regulations affecting healthcare providers as part of its "Patients Over Paperwork" initiative which began in 2017. More information about the Patients Over Paperwork initiative can be found here.

Healthcare experts agree that reducing the unnecessary burden spent complying with regulations is critical to improving patient care and reducing the risk of clinician burnout. One example is a study published in the Annals of Medicine which reported two hours of paperwork for every one hour of patient care. In support of the "Patients Over Paperwork" initiative, CMS Administrator Seema Verma stated "We are committed to putting patients over paperwork, while at the same time increasing quality of care and ensuring patient safety and bolstering program integrity."[1] As a result, this new CMS proposed rule seeks to eliminate a lengthy list of monitoring and reporting requirements across the agency's programs, saving healthcare providers approximately $178 million over the next three (3) years, including but not limited to the following:

- **Emergency programs.** Facilities will have the flexibility to conduct a program review at least every two (2) years, training at least annually, greater flexibility in conducting annual testing exercises and elimination of duplicative documentation requirements.
- **Hospitals**. Multi-hospital systems will be allowed to have unified and integrated quality, performance improvement and infection control programs, elimination of duplicative autopsy requirements, greater flexibility in establishing medical staff policies for outpatient pre-surgery/procedure patient assessments and authorized use of non-physician practitioners in psychiatric hospitals.
- **Critical Access Hospitals (CAH), Rural Health Centers (RHC) and Federally Qualified Health Centers (FQHC).** Removes duplicative CAH ownership disclosure requirements, and only requiring biennial (every other year) review of policies and procedures for CAH, RHC and FQHC.
- **Ambulatory Surgical Centers (ASC).** Elimination of duplicative requirements governing transfers agreements and medical staff's local hospital admitting privileges, removal of current patient history and physical (H&P) requirements with a proposal to require ASCs to adopt a policy that identifies those patient categories who require H&P prior to surgery.
- **Transplant Centers**. Eliminate duplicative requirements to submit data and other information more than once for "re-approval" by Medicare.
- **Hospices.** Eliminating duplicative requirements, thus streamlining the hiring and training process for nursing assistants.

- **Comprehensive Outpatient Rehabilitation Facilities (CORF).** Moving to annual, as opposed to quarterly, utilization review plans.
- **Community Mental Health Centers**. Relaxing the 30-day assessment requirements only for those CMHC clients who receive partial hospitalization program services.
- **Portable X-Ray Services**. Allows services to be ordered in writing, by telephone or by other electronic methods and modernizes technologist personnel requirements.

This CMS proposed rule can be viewed in its entirety in the Federal Register, dated September 20, 2018, and comments may be submitted electronically until November 19, 2018.

If you have questions or require additional information, please contact Stephanie T. Eckerle at seckerle@kdlegal.com, Susan E. Ziel through Integrity Health Strategies at sziel@ihsconsultinggroup.com or your regular Krieg DeVault attorney.

[1] See https://www.cms.gov/newsroom/press-releases/cms-proposes-lift-unnecessary-regulations-and-ease-burden-providers