Rural Emergency Hospitals

American Hospital Association Webinar

March 1, 2023

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Background

- Rural hospital and Critical Access Hospital closures
- Lack of access to services
- Consolidated Appropriations Act, 2021 (CAA) (Section 125, pg. 1779)
- Enacted on December 21, 2020

Overview and Conditions of Participation

Kianna Banks, RN, MS
Technical Advisor
Center for Clinical Standards and Quality
Clinical Standards Group

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Statutory Requirements

- Must convert from either a rural hospital with not more than 50 beds or a Critical Access Hospital
- Must provide emergency services
- Must furnish observation care
- May provide other outpatient services as specified by the Secretary through rulemaking

Statutory Requirements (cont'd)

- May not exceed an annual per patient average length of stay of 24 hours
- May not provide any acute care inpatient services
- Are permitted to provide Skilled Nursing Facility (SNF) services in a distinct part SNF
- Eligible for payment for items and services furnished on or after January 1, 2023

Statutory Requirements (cont'd)

- Note: the statute does not prohibit an IHS hospital or CAH from converting to an REH
- Must be staffed 24/7
- Must have a transfer agreement with a level I or level II trauma center
- Must have an action plan for initiating REH services
- REHs may convert back to its prior designation as a CAH or rural hospital

REH Conditions of Participation

- Medicare and Medicaid Programs; Conditions of Participation (CoPs) for Rural Emergency Hospitals (REH) and Critical Access Hospital CoP Updates, CMS-3419-F (87 FR 71748)
- Published November 23, 2022 in the Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs Payment Rule (CMS-1772-FC)

Policy Development Approach

- Request for Information (RFI) published in the CY 2022 Outpatient Prospective Payment System – Ambulatory Surgical Center Payment Systems Proposed Rule on August 4, 2021 (CMS-1753-P, 86 FR 42018)
- Standalone Proposed Rule published on July 6, 2022 (CMS-3419-P, 87 FR 40350)
- Intra and interagency collaboration
- Public-facing stakeholder calls

Policy Development Approach

- CoPs are based on the statutory requirements
- Closely mirrored the REH CoPs after the CAH CoPs
- Mirrored some of the REH CoPs after the hospital and Ambulatory Surgery Center CoPs

Health and Safety Standards/CoPs

The CAA requires the following*:

- REHs must be staffed 24/7
- A physician, nurse practitioner, clinical nurse specialist, or physician assistant is available to furnish REH services 24 hours a day
- REHs must meet the applicable CAH staffing and staffing responsibilities requirements under 42 CFR 485.631

**Not an exhaustive list of requirements, only a highlight of some that are in the CAA*

Health and Safety Standards/CoPs

The CAA requires the following:

- REHs must have a transfer agreement with a level I or level II trauma center
- REHs must meet the CAH emergency services requirements at 42 CFR 485.618 and the applicable hospital emergency department requirements
- REHs are subject to the EMTALA requirements under section 1867 of the Social Security Act

**Not an exhaustive list of requirements, only a highlight of some that are in the CAA*

Health and Safety Standards/CoPs

Requirements that generally reflect the CAH standards (or in some cases are less stringent than the CAH CoPs):

- Staffing
- Medical records
- Emergency Preparedness
- Laboratory services
- Infection control
- Discharge planning
- Quality assessment and performance improvement program

Health and Safety Standards/CoPs

- Medical staff
- Radiologic services
- Pharmaceutical services
- Laboratory services
- Emergency services
- Infection control
- Staffing
- Nursing services
- Patient's rights
- Agreements
- Physical environment

Health and Safety Standards/CoPs

- Additional outpatient services:
  - ✓ May include, but are not limited to radiology, laboratory, outpatient rehabilitation, surgical, behavioral health (including substance use disorder treatment), and maternal health services.
  - ✓ REHs may opt to provide low-risk labor and delivery services that are supported by the necessary emergency surgical procedures.

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Initial Guidance for Eligibility, Enrollment and the Conversion Process

Frank Whelan
Senior Technical Advisor
Provider Enrollment & Oversight Group
Center for Program Integrity

Jennifer Milby, RN
Division of Continuing & Acute Care Providers
Quality, Safety & Oversight Group Center for
Clinical Standards & Quality

Michelle Joshua, RN, MSN, ACNP, CNS-BC
Survey and Enforcement Division
Atlanta Survey Operations Group
Center for Clinical Standards and Quality
Centers for Medicare & Medicaid Services

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Enrollment

- Enrollment regulation at 42 C.F.R. § 424.575 states that eligible facilities must submit a change of information application, rather than an initial enrollment application, to enroll as an REH.
- Prospective REH facilities should complete the Form CMS- 855A change of information application (see section 1) and submit the completed application to their designated Medicare Administrator Contractor (MAC) for review and approval
- The MAC will review the change of information application and forward the recommendation of approval to the designated State Agency (SA).
- For additional details pertaining to REH enrollment policies, refer to the Medicare Program Integrity Manual, Chapter 10 Medicare Enrollment.

Additional Information

- In addition to the Form CMS 855A change of information application, prospective REH facilities must submit additional information for conversion to an REH.
- This includes an action plan for initiating REH services. The action plan and additional information should be submitted to the SA. (i.e. at the same time the CMS 855A – change of information application is sent to the MAC)

Action Plan

- The action plan outlines the facility's plan for conversion to an REH and the initiation of REH specific services including the provision of emergency department services, observation care and other medical and health services elected by the REH. This should include details regarding staffing provisions and the number and type of qualified staff for the provision of REH services.
- The action plan must include a detailed transition plan that lists the following:
  - Specific services the facility will retain;
  - Specific services the facility will modify;
  - Specific services the facility will add; and
  - Specific services the facility will discontinue.

Action Plan (Cont'd)

- The facility must include a description of services that the facility intends to furnish on an outpatient basis if elected by the REH.
- The facility must also include information regarding how the facility intends to use the additional facility payment. This includes a description of the services that the additional facility payment would be supporting such as the operation and maintenance of the facility and furnishing of services (i.e. telehealth services, ambulance services etc.).
- Eligible facilities may submit the action plan and additional information on letterhead or use the model action plan template provided.
- The submission should be signed by the facility's legal representative/administrator

Action Plan

- The SA will forward the action plan and information along with its recommendation for approval or denial to the designated CMS location for review and approval of the action plan components
- The CMS location will make a final determination and notify the MAC once the enrollment package is complete and has been reviewed and approved.
- The action plan and information must include all the required elements as specified. Missing or incomplete information may delay the conversion and enrollment process for eligible facilities applying to become an REH.
- In accordance with section 1861(kkk)(2)(A) of the Act, action plans will be available to the public and will eventually be posted on the CMS website. Additional information will be forthcoming once the process is finalized.

Transfer Agreement

- Under section 1861(kkk)(2) of the Act and at new 42 CFR §485.538 Condition of Participation: Agreements, the REH is required to have a transfer agreement with at least one Medicare - certified hospital that is designated as a level I or level II trauma center.
- The agreement is intended to ensure an appropriate referral and transfer process is in place for patients requiring emergency care and continued care services beyond the capabilities of the REH.
- In order to document compliance, a copy of the transfer agreement should be submitted to the SA along with the action plan.

Attestation of Compliance

- An REH is required to meet the CoPs for Rural Emergency Hospitals set forth at new Subpart E of 42 CFR Part 485 (§485.500 - §485.546).
- Eligible facilities converting to an REH may self-attest to meeting the REH CoPs and will not require an automatic on-site initial survey as eligible facilities are expected to be in full compliance with the existing CAH and hospital requirements at the time of the request for conversion.
- Facilities that were eligible as of December 27, 2020 which subsequently closed and re-enrolled in Medicare would require an initial on-site survey by the SA. These facilities do not have to submit an attestation, as an on-site initial survey will be performed to determine the facility is operational and in compliance with the REH requirements.

Attestation of Compliance

- Facilities may submit the attestation for compliance with the REH CoPs along with the action plan and copy of the transfer agreement to the SA.
- The attestation may be completed on facility letterhead or the model attestation of compliance template provided may be used. The attestation should be signed by the facility's legal representative/administrator.
- The SA will review the additional information for completeness and confirm compliance with any applicable state licensure requirements.
- Once complete, the SA will forward the additional information to the CMS location, along with a recommendation for certification or denial. The CMS location is responsible for making the final determination for certification of the REH.

Determination for REH Conversion

- Prior to making a final determination, the CMS location will confirm eligibility requirements, including bed count, based on the most recent cost report and rural status.
- Criteria for determining an applicant's rural status will follow the guidance for CAHs in SOM Chapter 2, section 2256A, with the exception that REHs are not expected to meet any distance/mileage requirements other than being located in a rural area or an area designated/reclassified as rural in accordance with §412.103
- Once the information has been reviewed, confirmed and approved, the CMS location will complete the certification kit in the current survey database which includes upload of the action plan, attestation and copy of the transfer agreement.

Determination for REH Conversion

- The CMS location will assign a CCN if approved and forward the approval or denial, as appropriate, along with the effective date to the MAC via the CMS-2007.
- The effective date will be based upon the date the application package was determined to be complete and approved by the CMS location for meeting all REH requirements.
- For facilities that require an on-site initial survey, the effective date will be based on current CMS policy, which is the exit day of survey if no deficiencies are cited, or in the alternative, if deficiencies are noted, the date an acceptable plan of correction was approved (see 42 CFR § 489.13).
- The SA and CMS location will review the materials provided and the survey history of the eligible provider. If any health or safety concerns are identified during the review, CMS maintains the discretion to perform an on-site survey at any time to further evaluate compliance with the REH requirements. Otherwise, the survey priorities for REHs will follow the annual Mission and Priority Document (MPD) released each fiscal year (FY).

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Technical Assistance

Kristi Martinsen
Director, Hospital State Division
Federal Office of Rural Health Policy
Health Resources and Services Administration

Anita Monteiro
Director, Quality Improvement & Innovation Group
Center for Clinical Standards and Quality
Centers for Medicare & Medicaid Services

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A CMS-HRSA Complementary Approach

HRSA REH TA Center (Administrative Support)

- Assessing feasibility of the REH model
- Assisting with the application to CMS for REH designation
- Providing ongoing support to REHs implementing new services and achieving REH compliance standards

CMS' Hospital QI Support (Quality Improvement Assistance)

- Regularly engage with the hospital leadership and Board of Directors on quality initiatives
- Share evidence-based strategies and best practices to improve quality
- Coaching on SDOH focus and person centered approach to care provision
- For QI areas, conduct RCA and jointly develop improvement plan in areas where gaps exist
- Provide robust, near real time, data analytic support to help reduce hospital reporting burden

CMS' Quality initiatives

- Focus Areas
  - Goal 1: Improve Behavioral Health Outcomes, with a focus on Decreased Opioid Misuse;
  - Goal 2: Increase Patient Safety with a focus on reduction of harm and;
  - Goal 4: Increase the Quality of Care Transitions with a focus on high utilizers in an effort to improve overall utilization.
- Core Measure Set
  - Opioid Stewardship
  - Adverse drug events (ADE)
  - Central line-associated blood stream infections (CLABSI)
  - Catheter-associated urinary tract infections (CAUTI)
  - Clostridioides difficile (C. diff)
  - Methicillin-resistant Staphylococcus aureus (MRSA)
  - Sepsis and Septic Shock
  - Pressure Ulcers
  - Readmissions

Federal Office of Rural Health Policy (FORHP): REH Activities

- Research Projects
  - Characteristics of Rural Hospitals Eligible for Conversion to REH and Three Hospitals Considering Conversion
  - Small Rural Hospitals with Low-Volume Emergency Departments that May Convert to a Rural Emergency Hospital (REH)
  - Key Considerations for a Rural Hospital Assessing Conversion to Rural Emergency Hospital
- Technical Assistance
  - Consolidated Appropriations Act FY 2022 - $5 million
  - FY2023 -- $5 million

FORHP Three Prong Approach to REH Technical Assistance

1. National Technical Assistance Center
    - Rural Health Redesign Center: https://www.rhrco.org/reh-tac; REHSupport@rhrco.org
    - Resources for broad dissemination; 1:1 assistance throughout the process of conversion
2. Supplement to Medicare Rural Hospital Flexibility Grantees
    - Broad outreach and education
3. Supplement to HRSA partners
    - National Conference of State Legislators:
        - Tracking state activity on establishing laws on REH licensure: https://www.ncsl.org/research/health/rural-emergency-hospitals.aspx
    - National Academy for State Health Policy
        - Developing model licensing language
        - https://www.nashp.org/medicares-new-rural-emergency-hospital-designation-considerations-for-states/

Resources

- For Questions: QSOG_REH@cms.hhs.gov
- QSO 23-07 memo on CMS website at: https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertificationgeninfo/policy-and-memos-states/guidance-rural-emergency-hospital-provisions-conversion-process-and-conditions-participation
- Technical Assistance through Health Resources and Services Administration (HRSA)

Key Contacts

- **Health and safety standards/Conditions of Participation:** Kianna Banks, kianna.banks@cms.hhs.gov

- **REH eligibility, enrollment, and conversion process:** Jennifer Milby QSOG_REH@cms.hhs.gov

- **REH Technical Assistance:** Anita Monteiro anita.monteiro@cms.hhs.gov; Kristi Martinsen KMartinsen@hrsa.gov

Questions?

Thank You!