

Medicare Proposes Continued Relief for Critical Access and Rural Hospitals Through 2-Year Moratorium on Direct Supervision Requirements

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On July 13, 2017, CMS released a proposed rule as part of its 2018 Outpatient Prospective Payment System proposals [available here: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2017-14883.pdf>] that is aimed at helping to reduce some of the burdens rural hospitals experience in recruiting physicians. Specifically, CMS proposes a two-year moratorium, for CY 2018 and CY 2019, on the direct supervision requirements for outpatient therapeutic services at critical access hospitals and rural hospitals with 100 or fewer beds. CMS addressed its proposal in a fact sheet it released on the same day [available here: <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2017-Fact-Sheet-items/2017-07-13.html>].

CMS has not enforced the direct supervision rules for these hospitals for several years, but the prior moratorium on enforcement had expired on December 31, 2016. The current proposed rule provides some additional certainty and extended relief for these providers. Rural hospitals and CAHs have consistently expressed to CMS that there is insufficient staff available to furnish direct supervision- especially for specialty services such as radiation oncology, which cannot be directly supervised by the physicians on-site in the emergency department either because of the volume of emergency patients or the providers' lack of specialty expertise in the area to be supervised. It is difficult to recruit physician and nonphysical practitioners to rural areas. The comments discuss whether CMS should apply the same supervision rules to all hospitals, to ensure that CMS is purchasing the same basic level of quality and safe outpatient care for all beneficiaries, regardless of the hospital type. However, CMS acknowledges the unique recruiting challenges facing CAHs and rural hospitals, and also noted that CMS is not aware of any quality of care complaints from beneficiaries or providers in these hospitals related to general supervision being provided (instead of direct physician supervision) for these services. CMS' Advisory Panel on Hospital Outpatient Payment is continuing to evaluate whether changes should be made to the supervision requirements. In the

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meantime, CMS proposes this two-year moratorium to allow CAHs and rural hospitals additional time to get into compliance, and to give all parties time to submit recommendations to the Advisory Panel.