RESOURCE DOCUMENT

APRIL 10, 2020

ADDITIONAL CMS BLANKET WAIVERS AIMED AT BOOSTING HEALTHCARE WORKFORCE

On April 9, 2020 the Centers for Medicare & Medicaid Services (CMS) released additional waivers related to the COVID-19 public health emergency. The waivers, retroactive to March 1, 2020, apply nationwide and are in place for the duration of the public health emergency declaration. No additional actions are required in order to take advantage of these waivers. Additional details on these waivers can be found here.

Critical Access Hospitals

Responsibilities of Physicians in Critical Access Hospitals (CAHs) (42 C.F.R. 485.631(b)(2)): Waives requirement that CAHs must have a physician physically present to provide medical direction, consultation, and supervision for the services provided in the CAH. Physicians must remain available "through direct radio or telephone communication, or electronic communication for consultation, assistance with medical emergencies, or patient referral."

Rural Health Clinics (RHC) and Federally Qualified Health Centers

Staffing Requirements (42 C.F.R. 491.8(a)(6)): Waives requirements that a nurse practitioner, physician assistant, or certified nurse-midwife be available to furnish patient care services at least 50 percent of the time the RHC and FQHC operates.

Physician Supervision of Nurse Practitioners (42 C.F.R. 491.8(b)(1)): Modifies the requirement that physicians must provide medical direction for the RHCs or FQHCs health care activities, as well as consultation for, and medical supervision of, the health care staff. The physician, either in person or through telehealth and other remote communications, continues to be responsible for providing medical direction for the RHC's or FQHC's health care activities and consultation for the health care staff, and medical supervision of the remaining health care staff.

Long-Term Care Facilities

Physician Delegation of Tasks in SNFs (42 C.F.R. 483.30(e)(4): Waives the requirement that prevents a physician from delegating a task when the regulations specify that the physician must

perform it personally. This waivers allows physicians to delegate any task to a physician assistant, nurse practitioner, or clinical nurse specialist who meets the applicable definition in 42 C.F.R. 491.2 or, in the case of the clinical nurse specialist, is licensed as such by the state and is acting within the scope of practice laws as defined by state law.
Physician Visits (42 C.F.R. 483.30(c)(3): Waives requirement that all required physician visits must be made by the physician personally; instead, physicians may delegate any required physician visits to a nurse practitioner, physician assistant, or clinical nurse specialist who is not an employee of the facility, who is working in collaboration with a physician, and who is licensed by the state and performing within the state's scope of practice laws.

Home Health Agencies

Allow Occupational Therapists (OTs) to Perform Initial and Comprehensive Assessments for All Patients (42 C.F.R. 484.55(a)(2) and 484.55(b)(3)): Waives requirement that OTs may only perform the initial and comprehensive assessment if occupational therapy is the service that establishes eligibility for the patient to be receiving home health care. Instead OTs may perform these assessments for all patients receiving therapy services as part of the plan of care, to the extent permitted under state law. Existing regulations continue to apply in that OTs and other therapists would not be permitted to perform assessments in nursing only cases.

Hospice

Onsite Visits for Hospice Aide Supervision (42 C.F.R. 418.7(h)): Waives requirement for nurses to conduct onsite supervisory visits every two weeks. This includes evaluations of whether aides are providing care consistent with the care plan.

Hospice Aide Competency Tests (42 C.F.R. 418.76(c)(1)): Temporarily modifies requirements for hospice aide competency tests on certain patient-specific tasks. Instead of observing aides with actual patients, hospices may utilize "pseudo-patients," such as a computer-based mannequin device.

Annual In-Service Training (42 C.F.R. 418.76(d)): Waives requirements that hospices must assure each hospice aide received 12 hours of in-service training in a 12-month period, allowing both aides and the registered nurses overseeing in-service training with more time to devote to direct patient care.

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