

To Combat COVID-19 Surge, CMS Expands the “Hospitals Without Walls” Program by Launching the “Acute Hospital Care At Home” Initiative, as well as Implementing Increased Flexibility for Ambulatory Surgery Centers

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Practices

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As hospitalizations due to COVID-19 reach records levels across the country, the Centers for Medicare & Medicaid Services (CMS) rolled out an unprecedented comprehensive strategy to increase hospital capacity as part of the “Hospitals Without Walls” program launched in March 2020. On November 25, 2020, CMS expanded on this program by executing an innovative Acute Hospital Care At Home program, providing eligible hospitals with never before implemented regulatory flexibilities to treat eligible patients in their homes. CMS developed this program to support models of at-home hospital care throughout the country that have proven successful in several leading hospital systems, such as Brigham Health Home Hospital and Presbyterian Health Services.

As part of this program, CMS also granted additional flexibilities to Ambulatory Surgical Centers (ASCs) – facilities that traditionally provide same-day surgery care - to help ease the burden on hospitals experiencing a patient surge due to COVID-19.

Acute Hospital Care at Home

CMS will not cover traditional home health services under this program. While traditional home health services provide skilled nursing and other skilled care services to beneficiaries, the Acute Hospital Care at Home program is designed for beneficiaries who require acute inpatient admission to a hospital and who require at least daily rounding by a physician and a medical team monitoring their care needs on an on-

going basis. CMS will track the program by requiring hospitals to report quality and safety data to CMS on a frequency that is determined by their prior experience with providing hospital care to patients at home.

Ambulatory Surgical Center Flexibility

ASCs are normally subject to a requirement that patients remain in their care for less than 24 hours, and if longer care is needed, then the patient must be admitted to the hospital. The recently announced new ASC flexibility builds upon the initial “Hospitals Without Walls” program that allowed ASCs the ability to be temporarily certified as hospitals and provide inpatient care for longer periods than normally allowed, as long as the appropriate staffing was in place.

On November 25, 2020, CMS increased the ASCs flexibility by requiring that participating ASCs need only provide 24-hour nursing services when there is actually one or more patients receiving care onsite. The program change provides ASCs enrolled as hospitals the ability to ramp up their staffing when needed and provide important overflow relief in communities experiencing hospital capacity constraints instead of having nurses and beds sit idle when ASCs are at low capacity. The flexibility is available to any of the more than 5,000 ASCs throughout the country who want to participate and will be immediately effective for any ASCs currently participating in the Hospital Without Walls initiative.

If an ASC enrolls as a hospital under the waiver, then the ASC will receive hospital payments, not ASC payments. Therefore, any ASC that is enrolled as a hospital will have its ASC billing privileges deactivated for the duration of the time it is enrolled as a hospital. It is also important to note that this waiver of federal requirements does not supersede state law or administrative requirements that may limit an ASC’s ability to act as a hospital under state law.

Hopefully, this regulatory flexibility will allow enrolled ASCs to assist hospitals in maintaining surgical capacity for other life-saving non-COVID-19 services, such as cancer surgeries. Allowing non-COVID-19 services to occur in enrolled ASCs while hospitals are managing COVID-19 surges would also provide the added benefit of allowing vulnerable patients to receive critical care without exposure to known COVID-19 patients.

How Hospitals Can Apply

To be part of the Acute Hospital Care at Home program, a hospital must file a request to waive §482.23(b) and (b)(1) of the Hospital Conditions of Participation, which require nursing services to be provided on premises 24 hours a day, 7 days a week and the immediate availability of a registered nurse for care of any patient. As of November 25, 2020, the waiver requests can be filed on CMS's website.

The type of waiver request submitted will depend on a hospital’s prior experience. Hospitals must submit the waiver request for individual CMS Certification Numbers, not entire systems. An expedited process is available for hospitals which previously provided at home acute hospital services to at least 25 patients with the goal being experienced hospitals rapidly expanding their care for Medicare beneficiaries. This expedited process includes the hospital providing an attestation to specific existing beneficiary protections and reporting requirements. Experienced hospitals will be required to submit monitoring data on monthly basis.

A more detailed waiver request is required for those hospitals which have treated fewer than 25 patients or have never provided at home acute hospital services. This process will emphasize internal processes to prove a hospital's capability of treating acute hospital care at home patients with the same level of care as traditional inpatients. These hospitals will be required to submit monitoring data on a weekly basis.

If the hospital is granted a waiver, the hospital is given flexibility to provide safe hospital care for eligible patients in their homes and updated staffing flexibility designed to allow their ASCs to provide greater inpatient care when needed. In explaining the rationale for these waivers, CMS Administrator Seema Verma stated, "With new areas across the country experiencing significant challenges to the capacity of their health care systems, our job is to make sure that CMS regulations are not standing in the way of patient care for COVID-19 and beyond." Hopefully, these new flexibilities for hospitals will help ease the burdens placed on them by the current pandemic, but hospitals must understand and be able to compliantly meet the enrollment, billing and reporting requirements of the program.