

CMS COMMENTS ON COMPLIANCE, QAPI REGULATIONS

During yesterday's Open Door Forum, Jeanette Kranacs, the Director of the Division of Institutional Post-Acute Care for the Centers for Medicare and Medicaid Services ("CMS") commented that CMS will not be issuing instructions to surveyors on evaluating compliance and ethics programs until the regulations have been promulgated. CMS was required to have final regulations and various tools in place as of March 2012, but has not yet released any regulations on the ethics and compliance programs for skilled nursing facilities ("SNFs").

The Affordable Care Act ("ACA") requires SNFs to have an ethics and compliance program in place by March 23, 2013. Earlier this month, we reported that CMS had unofficially stated they will not be enforcing the ethics and compliance program until final regulations are published. This is the first official acknowledgment of that position.

This does not relieve nursing facilities of their obligation to comply with the ACA requirements. We continue to recommend facilities develop and implement ethics and compliance programs based on existing guidance and evaluate and update their programs once CMS regulations are released.

CMS additionally stated that the Quality Assessment and Performance Improvement ("QAPI") regulations are still in the process of being released. The QAPI at a Glance document will be released "imminently."

Finally, CMS stated they still do not have any direction for facilities on billing for maintenance therapy, in light of the recent *Jimmo v. Sebelius* case.

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