

POSSIBLE RURAL HEALTH CLINIC DEEMING AUTHORITY ON THE HORIZON - COMMENTS REQUESTED

On October 28, 2011, the Centers for Medicare and Medicaid Services ("CMS") published a Federal Register notice to inform the public that an application for Rural Health Clinic ("RHC") deeming authority was submitted by the American Association for Accreditation of Ambulatory Surgery Facilities ("AAAASF"). If approved, AAAASF, in addition to CMS, will be able to confirm compliance with the RHC Conditions of Participation.



This is an important development since the current survey process for new RHCs is subject to a tiered priority system that serves to delay surveys for new RHCs. Specifically, CMS has implemented a four-tiered priority system. Under this system, subject to certain exceptions, highest priority for new surveys is given to Tier I providers (e.g., statutorily mandated surveys of existing nursing homes) while lowest priority for new surveys is given to Tier IV providers (e.g., surveys performed only if Tier I through Tier III surveys are completed). Currently, RHCs are classified as Tier III providers. Practically speaking, this means that many providers applying for new RHC status must wait for long periods of time before being able to obtain an RHC survey.

If approved, the deeming authority for AAAASF would give providers looking to establish new sites as RHCs or to convert existing clinics to RHC status an option to obtain an expedited survey by virtue of AAAASF's deeming authority. Given the fluid nature of the pending updates to the Health Professional Shortage Area ("HPSA") classification standards, this could be an important development for providers located in areas that may be at risk for losing HPSA designations since HPSA status is a prerequisite for new RHC status.

Since the AAAASF application has been neither approved nor denied, and since CMS has requested public comment on whether AAAASF's proposed survey requirements meet or exceed the Medicare conditions for RHC participation, we encourage interested providers to submit comments to CMS prior to the comment deadline of November 28, 2011 in support of AAAASF's application.

In its review of the AAAASF deeming authority request, CMS will evaluate equivalency of AAAASF standards for RHCs as compared to RHC Conditions of Participation set forth in 42 C.F.R. Part 491 as well as the robustness of the overall proposed survey process. While it would be useful for providers to comment on these factors, it will also be useful for providers to inform CMS of the importance of alternative survey methods given the timing limitations imposed by the tiered survey process referenced above. Providers should also explain to CMS how this new deeming option will enhance health care services to underserved populations.

Copies of the applicable survey materials upon which providers may want to base their comments may be found at <http://www.rhcaccreditation.org>. As proposed, AAAASF's accreditation fees range between \$1,655.00 (for less than two FTEs) to \$4,000.00 (for more than four FTEs).

If you would like additional information about any of these issues, please contact David Snow (414-721-0447 , dsnow@hallrender.com); Todd Nova (414-721-0464 , tnova@hallrender.com); or your regular Hall Render attorney.