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HOSPITAL
ASSOCIATION**

*Providing Leadership in
Health Policy and Advocacy*

July 1, 2019

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health & Human Services
200 Independence Avenue, SW
Washington, DC 20201

Subject: CMS-3368-P, Medicare Program; Accrediting Organizations—Changes to Change of Ownership; Proposed Rule, Federal Register (Vol. 84, No. 85), May 2, 2019

Dear Administrator Verma:

On behalf of our more than 400 member hospitals and health systems, the California Hospital Association (CHA) appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services (CMS) proposed rule, *Medicare Program; Accrediting Organizations (AOs)—Changes to Change of Ownership*.

This proposed rule outlines a process by which AOs need to obtain CMS approval for a change in ownership and tight timelines for providers with deemed status as a consequence. While we anticipate that AOs will afford providers sufficient time to do the due diligence with regard to implications for any change of ownership, we appreciate CMS' additional proposed considerations outlined in the proposed rule that would ensure uniformity across the accrediting organizations, regardless of provider type. With that said, CHA believes that **if CMS proceeds in codifying this process, it should extend the proposed time frames for providers, to allow hospitals and other providers sufficient time to negotiate new contracts and have orderly transitions from one AO to another AO, or to a State Survey Agency (SA).**

Extend Amount of Time for Providers to Transition if Prior AO Loses Medicare Approval

The proposed rule provides that if an AO does not appropriately seek approval from CMS prior to a change in ownership, providers accredited by that AO would only have 180 days of deemed status remaining. As an example, a hospital may have only recently gone through their AO's survey process and could have just recently been reaccredited for three years. Through no fault of their own, they would have only six months prior to their loss of Medicare certification status. By contrast, the proposed rule provides one year of deemed status to Medicare-certified suppliers.

CHA urges CMS to grant providers at least the same amount of time as Medicare-certified suppliers — one year — and allow for an extension process if additional time is needed. The Ligature Risk Extension Request process in CMS' draft guidance, *DRAFT-QSO-19-12-Hospitals - Clarification of Ligature Risk Interpretive Guidelines*, released April 19, 2019, may provide a helpful model for seeking an extension.

Further, the proposed rule has a number of challenging time frames to secure the proposed 180 days of remaining deemed status. Specifically, a provider would need to submit an application to another AO within 60 days. A provider would need to evaluate the different AOs, determine which would best meet its needs, contact the AO, enter into contract negotiations, and execute a contract. Sixty days is insufficient time to allow a hospital to make a financially sound and responsible decision. In addition, that would only leave 120 days remaining for the on-site reaccreditation survey. The hospital would be reliant on the new AO — or if they did not select an AO, the SA — to survey within those 120 days, or jeopardize the provider's Medicare certification. **CHA requests both the 60-day time frame to submit an application to a new AO and the 120-day time frame to be surveyed be extended, as with the overall timeframe, as described above.**

Additionally, within those first 60 days following an AO losing its Medicare approval, a provider would also need to notify the SA. However, the trigger for the start of the 60 days is a notice in the Federal Register. Not all providers review all copies of the Federal Register and, therefore, might not be aware of the loss of Medicare approval by the AO. By contrast, the proposed rule requires AOs to notify providers when they are approved for a change in ownership. **For consistency with how CMS proposes notice in the case of an approval of ownership occur, CHA requests the notice of an AO losing its Medicare approval also be provided directly to affected providers by CMS and the AO.**

Increase Notice Period of Providers of Change in AO Ownership

The proposed rule also provides that if CMS approves the transfer of ownership of an AO, providers would receive 15 days' notice from the current and future AO owners. This is an inadequate amount of time for hospitals to review and enter into new contracts with the new AO owner. **CHA requests CMS provide at least three months' notice to hospitals prior to the change in ownership going into effect, to allow hospitals time to engage with the new owner. Further, CMS should consider both print and electronic communications to satisfy these efforts (i.e., U.S. mail, email, voicemail follow up by AOs). In addition, similar to our request above, CHA seeks an extension process to allow providers additional time to review potentially new or different contract terms of the AO that has assumed ownership.**

CHA thanks CMS for considering the perspective of providers in its rulemaking on this issue. If you have any questions, please do not hesitate to contact me at akeefe@calhospital.org or (202) 488-4688, or Kiyomi Burchill, vice president, policy, at kburchill@calhospital.org or (916) 552-7575.

Sincerely,

/s/

Alyssa Keefe

Vice President, Federal Regulatory Affairs