

CMS EXPANSION OF HOSPITAL WITHOUT WALLS PROGRAM: ACUTE HOSPITAL CARE AT HOME NOW A REALITY

November 30, 2020

On the heels of new Stark and Antikickback regulations (see [HHS RELEASES TRANSFORMATIONAL NEW REGULATIONS UNDER STARK AND THE ANTI-KICKBACK STATUTE](#) and [MAJOR CHANGES ANNOUNCED IN NOVEMBER 2020 REGULATIONS UNDER THE STARK PHYSICIAN SELF-REFERRAL ACT](#)) comes a game changing announcement from CMS regarding the ability to treat hospital patients at home. In a [press release](#) dated November 25, 2020, CMS responds to the call of hospitals across the U.S. facing yet another wave of pandemic crisis through the Acute Hospital Care at Home program. This program, which is made available through new waivers, will provide participating hospitals the ability to reduce inpatient volumes and strains on emergency departments by treating certain acute care patients at home through a telehealth platform.

THE ACUTE HOSPITAL CARE AT HOME PROGRAM

This new program is an expansion of CMS's Hospital Without Walls program (launched in March 2020) which provides broad regulatory flexibility allowing hospitals to provide services in locations beyond their existing walls. "We're at a new level of crisis response with COVID-19 and CMS is leveraging the latest innovations and technology to help health care systems that are facing significant challenges to increase their capacity to make sure patients get the care they need," CMS Administrator Seema Verma noted in the press release. "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."

The program is designed for patients who would otherwise require hospitalization for a range of acute conditions, such as asthma, congestive heart failure, pneumonia, and chronic obstructive pulmonary disease. CMS has stated that the Acute Hospital Care at Home program is for Medicare beneficiaries (1) who require acute inpatient admission to a hospital and (2) who require at least daily rounding by a physician and a medical team monitoring their care needs on an ongoing basis.

PROGRAM SAFEGUARDS

There are a number of safeguards built into the program to ensure that patient receive an appropriate level of care. For example, to qualify for CMS waivers, participating hospitals would have to screen patients and their homes to assess compatibility, a process that would include an analysis of working utilities and broadband access, family issues, and

mobility concerns. In addition, qualifying patients will only be admitted into the program from an emergency department or inpatient care, with an in-person exam required prior to being sent home. Once at home, a registered nurse will evaluate each patient once daily either in person or remotely, and two in-person visits will occur daily by either registered nurses or mobile integrated health paramedics, based on the patient's nursing plan and hospital policies. Finally, CMS will "closely monitor the program to safeguard beneficiaries by requiring hospitals to report quality and safety data to CMS on a frequency that is based on their prior experience with the Hospital At Home model."

HOW TO PARTICIPATE IN THE ACUTE HOSPITAL CARE AT HOME PROGRAM

To participate in the program, the hospital must apply for an *individual waiver* (no blanket waiver is available). CMS is accepting waiver requests to waive §482.23(b) and (b)(1) of the Medicare 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. Application for the program waiver is available [here](#).

Waiver requests will be divided into two categories based on a hospital's prior experience. Hospitals must submit the waiver request for *individual CMS Certification Numbers, not entire systems*. Note that the application process will move along more quickly if hospitals already have home acute hospital services in place. Specifically, for those hospitals which have provided at home acute hospital services to at least 25 patients previously, an expedited process will be conducted and include hospital attestation to specific existing beneficiary protections and reporting requirements. The hospitals in this group will be required to submit monitoring data on a monthly basis.

The second group will include hospitals which have treated fewer than 25 patients or have never provided at home acute hospital services. This group will have to apply through a more detailed waiver process to prove capability of treating acute hospital care at home patients with the same level of care as traditional inpatients. This group will consist of some hospitals which are part of a larger, experienced health system, as well as hospitals without any prior experience that are not part of a health system with experience. These hospitals will be required to submit monitoring data on a weekly basis.

The [CMS online portal](#) should help to streamline the waiver request process and allow hospitals and healthcare systems to submit the necessary information to ensure they meet the program's criteria to participate.

AMBULATORY SURGICAL CENTER FLEXIBILITY

Ambulatory Surgery Centers (ASCs) were also included as part of the Hospital Without Walls program. CMS provided regulatory flexibility allowing ASCs the ability to be temporarily certified as hospitals and provide inpatient care for longer periods than normally allowed, provided appropriate staffing was in place. CMS is now providing an important update to that regulatory flexibility, clarifying that participating ASCs need only provide 24-hour nursing services when there is actually one or more patient receiving care onsite. The program change essentially allows ASCs enrolled as hospitals the flexibility to increase their staffing when needed instead of mandating nurses be present when no patients are in the ASC. The flexibility is available to any of the ASCs in the U.S. seeking to participate and will be immediately effective for the ASCs currently participating in the Hospital Without Walls initiative. This ASC flexibility should provide increased resources and access for patients during the pandemic. For more on the ambulatory surgical center flexibilities, please

see: <https://www.cms.gov/medicareprovider-enrollment-and-certificationsurveycertificationgeninfopolicy-and-memos-states-and/guidance-processing-attestation-statements-ambulatory-surgical-centers-ascs-temporarily-enrolling>.

CMS continues to analyze the COVID-19 pandemic landscape and is responding by continuing to create additional access to health care through even more expansion of the use of telehealth and sites for acute hospital services.

For your convenience, additional links are provided:

Comments from health systems participating in the Acute Hospital Care at Home program:

<https://www.cms.gov/files/document/what-are-they-saying-hospital-capacity.pdf>

Links to FAQs:

<https://www.cms.gov/files/document/covid-hospital-without-walls-faqs-ascs.pdf>

<https://www.cms.gov/files/document/covid-acute-hospital-care-home-faqs.pdf>

Should you have questions regarding these new opportunities for hospitals and ASCs, please contact a member of Hancock Daniel's [COVID-19 Task Force](#).

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