

MEDICARE'S RURAL EMERGENCY HOSPITAL DESIGNATION IS FINALLY HERE

After being in the works for several years, and as formally created by the 21st Century Cures Act, effective Jan. 1, 2023, certain rural and critical access hospitals will have the option to elect a new Medicare designation status as a Rural Emergency Hospital (REH). REHs are facilities that convert from either a Critical Access Hospital (CAH) or a rural hospital (or one treated as such under section 1886(d)(8)(E) of the Social Security Act (the Act)) with 50 beds or less, and that does not provide acute care inpatient services, except for post-hospital extended care services furnished in a distinct part unit licensed as a skilled-nursing facility (SNF).

In addition to continuing to provide emergency services and observation care, a facility that converts to an REH can also provide additional outpatient services. Subject to the final rule, the conversion may be effected by submitting a [Form CMS-855A](#) (change of information application) rather than an initial enrollment application. This is aimed at expediting the conversion from CAH to REH.

REH CONDITIONS OF PARTICIPATION (COP)

The REH Conditions of Participation (CoP) establish a full range of health and safety standards specific to governance, services offered, staffing, physical environment and emergency preparedness. Specific requirements include:

- maintaining a clinician on-call and available on-site within 30 or 60 minutes (depending on whether the facility is in a frontier area);
- staffing the emergency department 24 hours per day and seven days per week by a qualified emergency medical care provider;
- developing, implementing and maintaining an effective Quality Assurance and Performance Improvement program;
- maintaining an annual per-patient average length of stay of less than 24 hours; and
- maintaining an infection prevention and control and antibiotic stewardship program that adheres to nationally recognized guidelines.

REH PAYMENT POLICIES

REH services will be reimbursed at the Medicare Outpatient Prospective

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Payment System (OPPS) payment rate, for the equivalent covered outpatient department service, **plus 5%**. Beneficiaries are not to be charged coinsurance on the additional 5% payment.

REHs will also receive a **monthly facility payment**. After the initial payment is established in calendar year 2023, the payment amount will increase in subsequent years by the hospital market basket percentage increase.

RURAL EMERGENCY HOSPITAL QUALITY REPORTING (REHQR) PROGRAM

There are several reporting requirements that have not yet been finalized. For example, Section 1861(kkk) (7) of the Social Security Act, as added by section 125(a)(1)(B) of Division CC of the CAA, requires the Secretary of Health and Human Services to establish quality measurement reporting requirements for REHs. Notably, too, the Centers for Medicare & Medicaid Services (CMS) plans to finalize in its rules that, for REHs to participate in the REHQR program, they must have an account with the Hospital Quality Reporting (HQR) secure portal and a designated Security Official.

ARMSTRONG TEASDALE TAKEAWAYS

Effective Jan. 1, 2023, CAHs and other qualifying rural hospitals will have an alternative designation option to consider. The REH status eliminates long-term inpatient care, in efforts to decrease overhead costs. To be eligible, the rural hospital will have to meet the CoP and obtain an HQR account. Payments to CAHs will be 5% higher than the OPPS rate, along with a monthly facility payment to be determined.

The final rule is expected to simplify the change in status procedure and will hopefully also streamline the review and approval process.

If you are interested in learning more about REHs or have any specific questions or concerns on this new designation status, please contact your regular Armstrong Teasdale lawyer, or one of the authors listed below.