



**American Hospital
Association**

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Centers for Medicare & Medicaid Services
200 Independence Avenue, S.W.
Room 445-G
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**Ref: CMS – 3198 – P; Medicare and Medicaid Programs; Condition of Participation:
Immunization Standard for Long Term Care Facilities**

Dear Dr. McClellan:

The American Hospital Association (AHA), on behalf of our 4,700 member hospitals and health care systems, and our 31,000 individual members, including 1,200 skilled nursing facilities (SNF), appreciates the opportunity to comment on the proposed changes to the Medicare and Medicaid conditions of participation (COP) for nursing homes and SNFs. This proposed rule would require that nursing homes and SNFs provide influenza and pneumonia vaccinations to patients and document immunization status in patient medical records, unless the vaccine is medically contraindicated or refused by the patient. **The AHA strongly supports this proposal to ensure that this vulnerable population of patients receives the benefit and protection of influenza and pneumonia immunizations. We are pleased to assist CMS in promoting this proposal.**

While we applaud CMS' proposal, several operational issues raise concerns. As demonstrated in the fall of 2004, the vaccine supply is beyond the control of providers. If a shortage or major delay in vaccine supply occurs, providers should not be penalized by CMS or state survey agencies monitoring compliance with this new requirement. Therefore, **we recommend that the final rule state that if a shortage or substantial delay in vaccine supply occurs, then SNFs and nursing homes will be automatically exempt from compliance with this COP during the shortage period.**

As is widely recognized, the continuity of medical records between the acute setting and post-acute and nursing home settings is highly variable. Following a stay in a general acute hospital, or when being treated for an advanced chronic condition, many Medicare patients receive care in more than one post-acute setting, with some also receiving residential services in a nursing



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home. Often, these patients have a distinct medical record with each provider. Unfortunately, there is no reliable, efficient mechanism for integrating or coordinating the contents of the various records. In addition, attempts to access the contents of medical records stored by other providers can be time consuming and difficult. Frequently, patients are expected to be able to share accurate contact information for prior sites of care – an unrealistic expectation in some circumstances. **Given these challenges, CMS should consider implementing a mechanism for patients, or their representatives, to state whether they have already received an influenza and or pneumococcal immunization, within the recommended timeframes.** This would minimize the occurrence of redundant vaccines, minimize unnecessary costs, and avoid wasting vaccines and exacerbating any vaccine shortages.

In addition, **CMS should ensure that any penalties for noncompliance with the immunization documentation requirement are not excessive, given the systemic burdens faced by nursing homes and SNFs attempting to determine whether an annual influenza immunization or a lifetime pneumococcal immunization were provided in a prior setting.**

The AHA appreciates the opportunity to submit these comments. If you have any questions, please contact me or Rochelle Archuleta, senior associate director for policy, at (202) 626-2320.

Sincerely,

Rick Pollack
Executive Vice President