



**American Hospital
Association**

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December 8, 2009

Charlene Frizzera
Acting Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 445-G
Washington, DC 20201

RE: CMS-4085-P, Medicare Program; Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs (Vol. 74, No. 203), October 22, 2009

Dear Ms. Frizzera:

On behalf of our more than 5,000 member hospitals, health systems and other health care organizations, and our 40,000 individual members, the American Hospital Association (AHA) appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) proposed policy and technical changes to the Medicare Advantage and Medicare prescription drug benefit programs. This regulation includes programmatic and operational changes to improve beneficiaries' experiences and CMS' oversight and management of the Medicare Part C and D programs.

Our comments are in support of CMS' proposed change to an element of the Medicare Advantage compliance programs.

Element #3: Effective compliance training and communication

In its December 5, 2007 final rule (72 *Federal Register* 68700), CMS established that Medicare Advantage compliance plans must "include training and education between the compliance officer and the sponsoring organization's employees, managers, and directors, as well as their first tier, downstream and related entities." Thus, Medicare Advantage plans must train and educate their first tier, downstream and related entities, which would include hospitals and other providers, in how to detect, correct, and prevent fraud, waste and abuse in Medicare.

For hospitals, this policy is redundant. In order to become an institutional provider under traditional Medicare, hospitals are obligated to meet compliance training requirements regarding how to detect, correct and prevent fraud, waste and abuse. Moreover, the regulations state that



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Medicare Advantage organizations may only contract with hospitals that have a traditional Medicare provider agreement with CMS. As a result, all Medicare participating hospitals are already certified as meeting the Medicare Advantage training and education requirements. Any additional training is duplicative and unnecessarily costly.

Recognizing this overlap, CMS rightly proposes to modify its regulations to state that Medicare Advantage organizations whose first tier, downstream and related entities have met the fraud, waste and abuse certification requirements through enrollment into the traditional Medicare program are deemed to have met the training and educational requirements for fraud, waste and abuse. **The AHA strongly supports and appreciates this proposed change to compliance training, which will help eliminate unnecessary burden and cost on hospitals.**

If you have any questions, please feel free to contact me or Ashley Thompson, director for policy, at (202) 626-2688 or athompson@aha.org.

Sincerely,

Rick Pollack
Executive Vice President