American Hospital Association

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Submitted electronically

March 23, 2011

Jonathan Blum
Director
Center for Medicare
Center for Medicare and Medicaid Services
Hubert H. Humphrey Building
200 Independence Ave., SW
Washington, DC 20201

Dear Mr. Blum:

The American Hospital Association (AHA) requests that the Centers for Medicare & Medicaid Services (CMS) extend the delay in enforcing the physician face-to-face encounter requirement for patients that receive home health agency services, as required by section 6407 of the Patient Protection and Affordable Care Act (ACA). We encourage CMS to postpone enforcement of the new timeframes and related requirements of the face-to-face encounter until at least July 1, 2011. While we support the ACA provision to enhance the role of physicians in certifying the need for home health services, adequate physician education has not yet set the stage for effective implementation of the policy. We are concerned that moving forward on April 1 will inappropriately limit patient access to home health services and delay transitions from general acute hospitals to home care, due to home health agency concerns about potential payment denials based on non-compliance with this policy.

On December 23, CMS delayed enforcement of the requirements until April 1, 2011 to allow additional time for provider education. While CMS and provider groups have taken steps over the past three months to educate physicians, non-physician practitioners, hospitals, and home health agencies, there is still a great deal of confusion due to the complexity and added administrative paperwork of the new requirements.

A recent home health survey conducted by the National Association of Homecare and Hospice (NAHC) validates the anecdotal feedback that AHA has received from both our hospital and home health members that providers are not ready for the new requirements. The survey (provided to CMS by NAHC) was completed by 3,400 home health agencies, 40 percent of which are affiliated with hospitals and health systems. The following survey findings, in particular, highlight the need for additional education before enforcing the face-to-face encounter requirement:

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- 84% of HHAs provided education about the new requirements to physicians and NPPs, but more than 78% of HHAs indicate that physicians are not ready to provide the required documentation by April 1.
- 1 out 2 home health agencies report only partly understanding the policy;
- 2 out of 3 home health agencies report that referring physicians communicated confusion pertaining to the policy;
- 1 out of 3 home health agencies report that referring physicians will refuse to provide the required documentation; and
- Almost 80% of home health agencies expect referring physicians will not be ready to comply fully with the requirements.

In addition, several points of clarification on the face-to-face encounter requirement remain outstanding and should be addressed by CMS before moving forward with enforcement. These include some basic issues that have not yet been addressed in CMS' Frequently Asked Questions (FAQs) or that are currently addressed in a FAQ but require further clarification. Items include information on physician signature requirements, date stamp requirements, physician billing, and whether residents working and under the supervision of a "teaching physician" may conduct and document the face-to-face encounter.

We appreciate CMS' full consideration of this request and offer our assistance to support additional outreach efforts by the agency. Please contact me (lfishman@aha.org) or Rochelle Archuleta (rarchuleta@aha.org) to discuss any questions about our concerns.

Sincerely,

/s/

Linda E. Fishman
Senior Vice President for Public Policy Analysis and Development