



**American Hospital
Association**

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August 27, 2010

Donald M. Berwick, M.D.
Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 445-G
Washington, DC 20201

Re: CMS-3228-P, Medicare and Medicaid Programs: Changes to the Hospital and Critical Access Hospital Conditions of Participation to Ensure Visitation Rights for all Patients

Dear Dr. Berwick:

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 proposed changes to the Medicare Conditions of Participation (CoPs) for patient visitation rights. We generally support the proposed changes to visitation rights; however, we note that nearly all hospitals have existing policies and procedures in place regarding visitation rights and this change to the CoPs may be unnecessary.

We support the proposals at §482.13(h) for inpatient and §485.635(f) for critical access hospitals that require a hospital to have written policies and procedures regarding the visitation rights of patients, including any clinically necessary or reasonable restriction or limitation that the hospital may need to place on such rights and the reasons for the clinical restriction or limitation. For example, many hospitals restrict the number of visitors that can be present at any one time so that other patients' care is not disrupted. Hospitals also may refuse to allow individuals with fevers or other indicators of contagious disease to visit because of the danger to patients. These policies and procedures should specify that the hospital must inform each patient, or his or her representative where appropriate, of the patient's visitation rights, including any clinical restriction or limitation on those rights where appropriate. The proposals also state that the patient must be informed of his or her right, subject to his or her consent, to receive the visitors whom he or she designates, whether a spouse, a domestic partner, another family member or a friend, and of the right to withdraw or deny such consent at any time.



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Though on face value these seem to be straight-forward changes to the CoPs, we have concerns regarding the supplemental implementation of these CoPs, including: (1) development of interpretive guidelines; (2) development of instructions for surveyors; and (3) coordination with existing state laws regarding visitation rights. **We urge CMS to reach out to the AHA and other stakeholders prior to undertaking these supplemental implementation actions regarding the CoPs on patient visitation rights.**

Thank you for the opportunity to comment on this proposed rule. If you have any questions, please feel free to contact me or Nancy Foster, vice president of quality and patient safety policy, at (202) 626-2337 or nfoster@aha.org.

Sincerely,

Linda E. Fishman

Senior Vice President, Public Policy Analysis and Development