

75% Rule on Inpatient Rehabilitation Facilities STOP.....STUDY.....MODERNIZE

ISSUE:

- The 75% Rule is 100% Wrong. A new regulation from the Centers for Medicare and Medicaid Services (CMS) will soon make it more difficult for inpatient rehabilitation facilities (IRF) to give patients the help they need. The new CMS rule uses criteria from 1984 to determine whether these facilities can continue to provide sophisticated rehabilitation services. Instead of modernizing the nearly 20-year-old criteria, the CMS proposal would only make minor changes to the so-called “75% Rule”, and would severely restrict access to quality inpatient rehabilitation for many patients. Some rehab facilities may even be forced to close.

BACKGROUND:

- Under the 75% Rule, an IRF must ensure that 75% of its patients are receiving treatment for one or more of 10 specified conditions. The initial list of conditions was based on an industry consensus document that represented the state of the art in the late 1970s. The rule is one of several criteria a facility must meet to be defined as a rehabilitation facility for payment purposes.
- In June 2002, CMS suspended enforcement of the 75% Rule out of concern that it was not being applied uniformly across the nation. On May 16, 2003, CMS published a proposed rule including an announcement of its intentions to lift the moratorium and enforce a narrow interpretation of the 75% Rule. By its own estimates, CMS found that only 13% of IRFs could satisfy this rule.
- On September 9, 2003, CMS published another proposed rule that would increase the number of conditions from 10 to 12 and temporarily lowered the compliance threshold to 65% for a three-year period. Unfortunately, the proposed minor changes will limit patient access to inpatient rehabilitative care rather than improve it for those most in need.
- CMS has had ample opportunity to expand and update the 75% Rule, and instead has proposed regulations that would narrow the conditions that IRFs can treat.

SOLUTION: Stop – Study – Modernize

- Congress must enact legislation that would parallel the Medicare Payment Advisory Committee’s recommendations to **Stop**, **Study** and **Modernize**:
 - Stop the implementation of this new rule;
 - Study the issue by asking the renowned Institute of Medicine to convene a panel of clinical experts in rehabilitation;
 - Modernize the rule so all Americans have access to the rehabilitation care they need.