



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Touching Lives Every Day"

COMPLIANCE ALERT 10-50

CMS Issues Final Rule on Hospital Visitation

CMS released its final rule on patients' hospital visitation rights. The rules go into effect 60 days from November 19, 2010. This rule follows the issuance of a Presidential Memorandum on April 15, 2010. The rule requires that all patients have the right to designate who may visit them and that "all hospitals and CAHs fully inform patients (or their representatives) of this right, and that all patients are guaranteed full participation in designating who may and who may not visit them."

According to CMS, "this final rule will revise the Medicare conditions of participation for hospitals and critical access hospitals (CAHs) to provide visitation rights to Medicare and Medicaid patients. Specifically, Medicare- and Medicaid-participating hospitals and CAHs will be required to have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation that the hospital or CAH may need to place on such rights as well as the reasons for the clinical restriction or limitation."

Highlights of the New Visitation Rule from CMS Rule:

- Each patient (or representative where appropriate) 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 (including a same-sex domestic partner), another family member, or a friend, and of the right to withdraw or deny such consent at any time.
- There is no mandated format for the notification. The rule allows Hospitals and CAHs flexibility in the format but the underlying principles and policy must be implemented.
- Hospitals are not permitted to restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation, or disability.

- Hospitals must ensure that all visitors designated by the patient (or representative where appropriate) enjoy visitation privileges that are no more restrictive than those that immediate family members would enjoy.
- The new rule requires the same visitation requirements to CAHs and revises the Conditions of Participation (CoPs) for CAHs. Because the CoPs for CAHs do not contain patient rights provisions, CMS is adding a new standard on patient visitation rights at §485.635(f).
- CMS requires hospitals and CAHs to “inform each patient (or support person, where appropriate) of his or her visitation rights, including any clinical restriction or limitation on such rights.”
- Oral designation of a support person is sufficient for establishing the individual who may exercise the patient’s visitation rights on his or her behalf, should the patient be unable to do so. In addition, the patient’s or support person’s oral consent to admit a visitor or to deny a visitor is sufficient evidence of their wishes, and that further proof of those wishes should not be required. However, hospitals and CAHs are permitted to record such information in the patient’s record for future reference, if they so choose.
- The patient’s right to choose visitors also includes the right to deny visitors.
- Hospitals and CAHs are required to “ensure that all visitors enjoy full and equal visitation privileges consistent with patient preferences.”

Action Needed: HHSC facilities should review their visitation policies and practices to ensure compliance with the new CMS rule before the rule is implemented on or about January 18, 2011.

Source: http://www.ofr.gov/OFRUpload/OFRData/2010-29194_PI.pdf