



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

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COMPLIANCE ALERT 11-19

CMS Guidance on Enforcement of Patient Visitation Rights

CMS has sent a letter to State Survey agencies highlighting changes to the Medicare Conditions of Participation requiring hospitals and CAHs to have written policies and procedures regarding patient visitation rights. This is follow-up to the final rule issued by CMS in November 2010. A copy of the letter and guidance is attached below.

Summary of Key Guidance Issues: CMS states that "When a patient who is not incapacitated has designated, either orally to hospital staff or in writing, another individual to be his/her representative, the hospital must provide the designated individual with the required notice of patients' rights in addition to the patient. The explicit designation of a representative takes precedence over any non-designated relationship and continues throughout the patient's inpatient stay or outpatient visit, unless expressly withdrawn, either orally or in writing, by the patient."

Specific Changes. The new guidance clearly articulates that visitation rights must be granted and not denied on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity or disability. Visitation rights must ensure that all visitors "enjoy full and equal visitation privileges consistent with patient preferences."

From the CMS Guidance... "When a patient is incapacitated or otherwise unable to communicate his or her wishes, there is no written advance directive on file or presented, and an individual asserts that he or she is the patient's spouse, domestic partner (whether or not formally established and including a same-sex domestic partner), parent (including someone who has stood in loco parentis for the patient who is a minor child), or other family member and thus is the patient's representative, the hospital is expected to accept this assertion, without demanding supporting documentation, and provide the required notice to the individual.

Action Needed: State Survey agencies are to assure that this new rule is enforced and that policies and procedures support this practice. Facility Policy Coordinators and Administrators should ensure that established visitation guidelines reflect this important change in the Conditions of Participation.

Source: http://www.cms.gov/Surveycertificationgeninfo/downloads/SCLetter11_36%20part%20I.pdf
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