

AFTER MORE THAN TWO YEARS, CMS RELEASES FINAL HOME HEALTH COPs

THIS TIME THINGS ARE REALLY GOING TO CHANGE.

On January 9, 2017, the Centers for Medicare & Medicaid Services ("CMS") released a [pre-publication copy of the Final Revised Home Health Conditions of Participation](#) ("Final CoPs"). With the release of the Final CoPs, CMS is finalizing, with only a few changes, the significant changes they proposed to make to the home health CoPs in October 2014. Although the major revisions are mostly adopted as proposed, a number of "clarifying changes" introduced in the final rule are substantive.

Initially, the most concerning issue for agencies will be the compliance deadline CMS set. CMS received comments proposing the industry be given anywhere from six months to five years to comply with the revised CoPs, and CMS has chosen July 13, 2017. This means agencies will have slightly more than six months from today to implement changes to their policies, procedures and practices necessary to comply with the revisions.

There are some changes between the proposed CoPs and the Final CoPs. These changes include modifying the proposed requirements regarding OASIS data transmission to conform to changes that have occurred during the period after the proposed rule was issued.

CMS is also modifying the definition of "Representative" to distinguish between a legal representative who has decision-making authority under the law and a patient-selected representative. This two-tiered approach has resulted in changes throughout the regulation to address these two types of representative. The final regulations add a new standard for "Written Information to the Patient." This standard was developed in response to concerns raised about the effectiveness of providing a patient with a copy of the plan of care. This standard was not in the proposed rule.

PRACTICAL TAKEAWAYS

In the coming days, we will be providing additional, more in-depth analysis of the Final Rule. Agencies will need to begin reviewing the Final Rule immediately and familiarizing themselves with the new requirements. Agencies will need to quickly begin assessing their current policies and procedures in light of the Final CoPs to determine what will need to change, what will need to be reorganized and what will need to be developed. Agencies should not wait to begin this process because with a compliance deadline of July 13, 2017, there is not much time to spare.

If you have any questions regarding this article, please contact:

- [Robert Markette](#) at (317) 977-1454 or rmarkette@hallrender.com;
- [Todd Selby](#) at (317) 977-1440 or tselby@hallrender.com; or
- Your regular Hall Render attorney.

Please visit the Hall Render Blog at <http://blogs.hallrender.com/> or click [here](#) to sign up to receive Hall Render alerts on topics related to health care law.