



Herb B. Kuhn
President and CEO
P.O. Box 60
Jefferson City, MO 65102

August 31, 2020

The Honorable Emanuel Cleaver, II
U.S. Congressman
2335 Rayburn Office Building
Washington, DC 20515-4329

Dear Congressman Cleaver:

On August 25, the Centers for Medicare & Medicaid Services issued an interim final rule addressing various topics related to COVID-19. The action was both unexpected and jarring. The new rule will go into effect upon publication in the *Federal Register*, which is scheduled to occur Wednesday, September 2. CMS solicits public comments on its interim final rule for 60 days after it goes into effect.

The 198-page rule imposes a variety of new obligations on hospitals, nursing homes and other health care providers. One of CMS' new requirements for hospitals makes daily reporting of COVID-19 data a Medicare Condition of Participation, meaning that violations can lead to exclusion from the Medicare program. According to Department of Health and Human Services' data, Missouri hospitals are nearing full compliance with the daunting and rapidly evolving demands for submission of COVID-19 data. The attached infographic from the American Hospital Association describes HHS' ever-changing and complicated approach to collecting COVID-19 data from hospitals during the pandemic. When reporting was directed to the National Healthcare Safety Network, Missouri hospitals achieved full compliance in reporting COVID-19 data to the federal government. With the Teletracking System, we are aware that some hospital-submitted data has not been properly incorporated into the federal system.

HHS' data indicates Missouri hospitals' current compliance with its data requirement is good — averaging above 90% of the identified "key variables." However, this interim final rule authorizes CMS regulators to bar the remainder of Missouri hospitals — 14 facilities — from participation in the Medicare program for failing to meet the agencies' daily submission requirement, however that requirement might evolve. For most hospitals, exclusion from Medicare is the most direct route to bankruptcy and closure. The communities in which those 14 Missouri hospitals are located deserve to have meaningful opportunity to comment on a new process that could rob them of their local hospital. Perfunctory solicitation of public comments after the standard is in place is unfair to those Missourians.

MHA urges the members of the Missouri Congressional Delegation to immediately contact the HHS asking for a delay in the implementation of the interim final rule until its components can be thoroughly vetted by a prospective and meaningful public comment process.

Sincerely,

A handwritten signature in black ink, appearing to read "Herb B. Kuhn", is written over a horizontal line.

Herb B. Kuhn
President and CEO

hbk/djb

attachment

c Devin Kelsey