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September 23, 2020

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201-0007

Dear Administrator Verma:

The Missouri Hospital Association, on behalf of its 140 member hospitals, is concerned about the implementation of the Centers for Medicare & Medicaid Services interim final rule that went into effect on Wednesday, September 2. The rule, which was unexpected and jarring, imposes a variety of new obligations on hospitals, nursing homes and other health care providers. Lack of compliance with the new obligations threatens regulatory penalties including exclusion from the Medicare program. However, CMS has yet to provide accurate and complete guidance to hospitals to ensure compliance.

Under the new rule, hospitals are required to report COVID-19 data as a Medicare Condition of Participation. Hospitals were provided with information on where to report the required data in the final rule. However, details from CMS have been changing, are sometimes contradictory and insufficient in how they have been communicated.

For example, communication streaming from the Health and Human Services Data Liaison has not been formalized in any communication from the agency. For weeks, hospitals were under the impression they had a 96-hour window to enter data. Abruptly and without notice, MHA was informed through the liaison that the ability to use that window to both enter and correct data during that time period was being eliminated.

According to HHS data shared with MHA on September 10, Missouri hospitals were nearing full compliance with the daunting and rapidly evolving demands for submission of COVID-19 data. MHA received a certification of compliance letter indicating more than 90% of hospitals were in compliance with reporting. But just this week, MHA was made aware that now, only 11 of the 140 hospitals in our state are compliant with data submission guidelines. We understand that the reportable data elements have not changed; the guidelines for what data must be submitted and how compliance is being measured has changed. Those guidelines have never been clearly communicated with hospitals. Additionally, MHA learned from the liaison this week that hospitals can expect a warning letter on noncompliance from CMS in the next couple of days. It is unclear how hospitals can be warned to perform against guidelines never communicated.

Since the inception of this new data program in July, MHA has informed HHS of inaccuracies with their data including names of hospitals that have been closed. Although changes were noted for a brief period, new reports recently shared by the liaison show closed hospitals that had previously been removed are now listed as active nonreporting facilities. In addition, hospitals without current COVID cases are being required to enter data. Many of these are smaller, rural facilities with limited resources. Reporting when they have no COVID-19 patients pulls needed resources away from other operational activities, including patient care.

Everyone understands the need for accurate and timely data when making critical decisions. As evidenced by our current 90 percent compliance and the many public facing dashboards that MHA and hospitals in the state of Missouri support, we have and will continue to be willing and dependable partners. However, complex and stringent data requirements coupled with the feedback of inaccurate data and the lack of clear guidance have set hospitals up to fail.

Based on the myriad of challenges with this new reporting system, along with the fact that regional offices and state agencies overseeing Missouri are unaware of how compliance with the new conditions will be measured, MHA urges CMS to suspend enforcement activities until clear guidelines have been established and system failures have been identified and addressed. This is not a sprint. Rather, we are in a marathon to ensure processes and expectations are well established with the current pandemic and challenges our health care system will face in the future.

If you have any questions, you may contact me at 573-893-3700, ext. 1332, or hkuhn@mhanet.com.

Sincerely,



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