

Issue Brief

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CMS Issues Proposed Rule to Delay CoPs for Home Health Agencies

The Centers for Medicare & Medicaid Services has issued a proposed rule that would delay the effective date for the final rule entitled “Medicare and Medicaid Programs: Conditions of Participation for Home Health Agencies” published in the *Federal Register* on Jan 13, 2017. The current effective date for the final rule is July 13, 2017, and this rule proposes to delay the effective date for an additional six months until Jan. 13, 2018.

The 13-page rule will be published in the April 3rd *Federal Register*.

CMS says it received inquiries that “represented a large number of HHAs requesting that the agency delay the effective date for the new HHA CoPs. The inquiries asserted that HHAs were not able to effectively implement the new CoPs until CMS issued its revised Interpretive Guidelines (State Operations Manual, CMS Pub. 100-07, Appendix B).” Further, CMS notes that the concerns expressed in the inquiries have merit, and is therefore proposing to delay the effective date of the January 2017 HHA CoPs final rule for an additional six months.

The proposed rule also would make two conforming changes to dates that are included in the regulations text.

First, CMS says it continues to believe that it is appropriate to phase-in the performance improvement project requirement 6 months after the provisions of the January 2017 HHA CoPs final rule would have become effective. Therefore, CMS proposes to revise the phase-in date for the requirements at §484.65(d) by replacing the Jan. 13, 2018 date with a July 13, 2018 date.

Second, CMS proposes to revise §484.115(a) — “Standard: Administrator, home health agency.” In this provision, CMS grandfathered in all administrators employed by HHAs prior to the effective date of the January 2017 HHA CoPs final rule, meaning that those administrators employed by an HHA prior to July 13, 2017 would not have to meet the new personnel requirements. CMS proposes to replace the July 13, 2017 effective date at §484.115(a)(1) and (2) with the proposed effective date of Jan. 13, 2018.

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