

Eli's Hospice Insider

Regulations: Emergency Preparedness Burden Could Diminish Under Recent Proposed Rule

A real disaster would preempt your next training exercise.

A rule published earlier this fall may allow you to cross some items off your emergency preparedness duty list, if it's finalized as proposed.

Reminder: The **Centers for Medicare & Medicaid Services** published a rule in the Sept. 20 Federal Register aimed at reducing burden for Medicare and Medicaid providers (see Eli's Hospice Insider, Vol. 11, No. 11). The hospice-specific proposals included in the rule are largely expected to provide insignificant relief. But the more general provisions attempting to lighten providers' duties regarding emergency preparedness may actually make an appreciable difference for providers.

CMS proposes lightening up providers' training requirements (see Eli's Hospice Insider, Vol. 12, No. 1). The rule also includes these additional EP workload-lightening provisions.

Program review. Medicare currently requires providers to review their EP plans every year. The rule proposes giving providers "the flexibility to review their emergency program every two years, or more often at their own discretion, in order to best address their individual needs," CMS notes in a fact sheet about the rule. "A comprehensive review of the program can involve an extensive process that may not yield significant change over the course of one year."

Providers could review the plan more frequently "should significant changes become necessary as determined by the individual needs of the facility," CMS adds.

"We expect that facilities would routinely revise and update their policies and operational procedures to ensure that they are operating based on best practices," CMS notes in the rule. "In addition, facilities should update their emergency preparedness program more frequently than every 2 years as needed (for example, if staff changes occur or lessons-learned are acquired from a real-life event or exercise)."

General program training. "We would require that facilities provide training biennially (every 2 years) after facilities conduct initial training for their emergency program," CMS says in the rule. In a fact sheet about the rule, CMS notes that "overly restrictive training requirements can have unintended consequences in preventing facilities from focusing their training efforts on what makes sense in unique circumstances."

Specifics: The rule also proposes "to require additional training when the emergency plan is significantly updated. For example, when a facility makes substantial changes to the procedures or protocols within the emergency plan, we would require additional training on the updated emergency plan," CMS says. But "other nonsignificant updates, such as revisions to the communication plan regarding contact information for staff, could be sent in company memorandum or provided to the facility's staff through other means."

Collaboration. Providers "are currently required to develop and maintain an emergency preparedness plan that includes a process for cooperation and collaboration with local, tribal, regional, State, and Federal emergency preparedness officials' efforts to maintain an integrated response during a disaster or emergency situation, including documentation of the facilities' efforts to contact such officials and, when applicable, of its participation in collaborative and cooperative planning efforts," CMS notes in the rule.

This requirement is "duplicative," CMS concludes in its fact sheet. "This information is already contained in other regulations requiring that these activities occur." And "elements of this requirement are unduly burdensome," CMS says

in the rule. "Therefore, we propose to eliminate the requirement."

Keep in mind: Providers "will still be required to include a process for cooperation and collaboration with local, tribal, regional, State and Federal emergency preparedness officials' efforts to maintain an integrated response during a disaster or emergency situation," CMS points out. And "we continue to encourage facilities to participate, when available, in community cooperative and collaborative planning efforts and execute the training and testing requirements," the agency adds.

Real disaster. Finally, CMS proposes "to clarify the testing requirement exemption by noting that if a provider experiences an actual natural or man-made emergency that requires activation of their emergency plan, inpatient and outpatient providers will be exempt from their next required full-scale community-based exercise or individual, facility-based functional exercise following the onset of the actual event," the rule says.

Savings: Across all provider types, the EP changes would save providers about \$143 million annually, CMS estimates in the rule.

The comment period for the rule closed Nov. 19. Providers can stay tuned for the final rule to see exactly how much - or how little - regulatory relief they will see under the regulation.

Note: CMS's fact sheet about the rule is at

www.cms.gov/newsroom/fact-sheets/medicare-and-medicaid-programs-proposed-regulatory-provisions-promote-program-efficiency-0.