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Hospitals Walk Fine Compliance Lines With Patient Choice in Discharge Planning Rule

By Nina Youngstrom

When the final regulation on discharge planning takes effect Nov. 29, hospitals will have to start giving patients a list of post-acute care (PAC) providers in the geographic area of their choice even if they don't have an available bed. That could put hospitals in an awkward position with patients, who may want to stay put until a bed in their selected skilled nursing facility (SNF) opens up, and lead to more discharges with the Hospital-Issued Notice of Noncoverage (HINN).

That's one of several challenges with the patient choice requirement in the regulation,^[1] which was published in the Sept. 30 *Federal Register*.^[2] Hospitals also must give patients quality and resource use information on PAC providers, something they may not be able to fully comply with when the regulation takes effect, because the definition of resource use is a mystery, said Ronald Hirsch, M.D., vice president of R1 RCM.

And hospitals have to strike "preferred providers" from their vocabulary when they present a list of PAC providers to patients at discharge. "CMS considers patient choice to be an inalienable right of the patient, which can't be infringed upon by other forces," Hirsch said at an Oct. 23 webinar sponsored by RACmonitor.com. At the same time, CMS is pushing providers to create partnerships for better quality and lower costs. "The question is, if you don't call them preferred, are you still allowed to suggest options of providers you have relationships with? I think you can label PAC providers you have a partnership with and give patients informed choice, as long as they realize they still have a choice of any provider. Am I 100% sure that's what CMS means? I'm not."

The final regulation on discharge planning was a big departure from the 2015 proposal. Hospitals have been freed from discharge planning for all outpatients who receive sedation and observation patients, and they won't always have to start the process within 24 hours of registration or admission. Hospitals also got more flexibility with the medical information sent to PAC providers.

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