

Report on Medicare Compliance Volume 29, Number 26. July 20, 2020 HHS Finalizes Part 2 Rule; More Changes Are Coming from CARES Act

By Nina Youngstrom

In the final Confidentiality of Substance Use Disorder Patient Records regulation (42 C.F.R. § 2),^[1] known as Part 2, HHS changed its tune on care coordination and case management. They were added to a list of 17 activities, including billing and fraud, waste and abuse activities, that will now be treated as payment and health care operations, according to the rule, which was published in the *Federal Register* July 15. Hand in hand with other provisions, this means a patient can consent to share substance use disorder information with a Part 2 entity, and that entity can further disclose the information to its contractors for payment and health care operations.

The reversal will be welcomed by Part 2 providers. “Before, it would have been hard to get substance use disorder information from a Part 2 entity to a care coordination entity because there wasn’t really a direct pathway for an individual to consent to it, but in the final rule, there is more than one way,” said Los Angeles attorney Adam Hepworth, with Foley & Lardner. “This is a simple and straightforward way.”

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