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Snapshot: A Quick Comparison of What Is and Isn't Waived for CMS's Acute Hospital Care at Home

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Here's a shorthand version of many aspects of the Medicare conditions of participation (CoPs) waivers that apply to CMS's new Acute Hospital Care at Home program^[1] during the COVID-19 public health emergency. They are compared to the CoPs that are still in effect. The comparison was prepared by attorney Ann McCullough of Polsinelli in Denver. Contact her at amccullough@polsinelli.com.

What's Waived	What's Not Waived
	<p>42 C.F.R. § 482.11 Compliance with Federal, State and Local Laws</p> <p>Compliance is not waived, e.g., state may require hospital license.</p>
<p>42 C.F.R. § 482.12 Governing Body</p> <p>Waives distant site agreement for telemedicine, (a)(8-9); requirement that Medicare beneficiary is "under the care of" a physician, (c);</p> <p>and emergency policies for off-campus hospital department surge facilities, (f)(3).</p>	<p>42 C.F.R. § 482.12 Governing Body</p> <p>Other governing body conditions of participation (CoPs) not waived, including medical staff oversight.</p>
<p>42 C.F.R. § 482.13 Patient's Rights</p> <p>Certain visitation (h) and seclusion waivers (e)(1)(ii)/(g)(1)(i-ii) waived in states with "widespread confirmed cases."</p>	<p>42 C.F.R. § 482.13 Patient's Rights</p> <p>Other patient rights are not waived, including notice of rights, privacy, safe setting, grievances, participation in plan of care, etc.</p>
<p>42 C.F.R. § 482.15 Emergency Preparedness</p> <p>Waived requirement for emergency policies.</p>	<p>42 C.F.R. § 482.15 Emergency Preparedness</p> <p>Emergency and standby power systems are not waived.</p>

<p>42 C.F.R. § 482.22Medical Staff</p> <p>Medical staff may keep practicing if privileges expire and start before governing body approval. Waiver of privileges requirements, including telemedicine.</p>	<p>42 C.F.R. § 482.22Medical Staff</p> <p>Most medical staff CoPs not waived, including informed consent.</p>
<p>42 C.F.R. § 482.23Nursing Services</p> <p>Waived requirement for current nursing plan and requirement that verbal orders be used infrequently.</p>	<p>42 C.F.R. § 482.23Nursing Services*</p> <p>Did not waive requirement for 24/7 immediate availability of a registered nurse.</p> <p>*Focus of new CMS Acute Hospital Care at Home model</p>
<p>42 C.F.R. §§ 482.25, 482.26and 482.27 Pharmacy, Radiology and Laboratory</p>	<p>42 C.F.R. §§ 482.25, 482.26and 482.27 Pharmacy, Radiology and Laboratory</p> <p>Hospital must provide pharmaceutical service, radiologic services, and laboratory services that meet patient needs. CoPs for Schedule II-IV drugs not waived.</p>
<p>42 C.F.R. § 482.28</p> <p>Waived dietary manual requirement.</p>	<p>42 C.F.R. § 482.28</p> <p>Most food and dietetic services requirements still apply.</p>
<p>42 C.F.R. § 482.41Physical Environment</p> <p>Allows facility and nonfacility space not normally used for patient care to be used for patient care or quarantine.</p>	<p>42 C.F.R. § 482.41Physical Environment</p> <p>Did not waive safety features, including testing sprinklers, fire extinguishers, emergency generators. Location “must be approved by the state.”</p>

Key CMS Conditions of Participation Blanket Waivers

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