

Office of Inspector General Report on Critical Access Hospitals Proposes Removal of Necessary Provider Exemption

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Yesterday, the Office of Inspector General (OIG) of the **U.S. Department of Health and Human Services** issued a report finding that almost two-thirds of critical access hospitals (CAHs) do not meet the location requirement required for CAH certification. If the Department moves forward with the OIG's recommendations, CAHs, especially those with necessary provider designations, could be removed from the critical access hospital and its cost-based reimbursement.

In order to be certified as a CAH, a hospital must meet two location requirements. The hospital must be in a rural area (the rural requirement) and located more than a 35-mile drive from the nearest hospital or more than a 15-mile drive from the nearest hospital in mountainous areas or areas only with secondary roads (the location requirement). Prior to 2006, states could designate a hospital a "necessary provider" (NP). This designation exempts hospitals from the location requirement.

The OIG report noted that decertifying CAHs within 15 miles of another hospital or CAH would have saved Medicare \$268 million in 2011 and that decertifying half of all CAHs not meeting the location requirements would have saved Medicare an estimated \$373 million, or approximately \$860,000 per decertified CAH.

As a result of its study, the OIG proposed four recommendations to CMS. CMS concurred on the following three recommendations:

1. CMS should "seek legislative authority to remove NP CAHs' permanent exemption from the distance requirement, thus allowing CMS to reassess these CAHs";
2. CMS should "ensure that it periodically reassesses CAHs for compliance with all location-related requirements"; and,
3. CMS should "ensure that it applies its uniform definition of 'mountainous terrain' to all CAHs."

CMS did not concur with the OIG's recommendation to "seek legislative authority to revise the CAH

Conditions of Participation to include alternative location-related requirements.”

A link to the OIG’s study can be found [here](#). von Briesen attorneys will continue to monitor this issue. In the meantime, CAHs may wish to assess whether modifications to the NP designation exemption will impact the hospital’s CAH certification.

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