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Hospital Medicare Certification at Risk? CMS Clarifies Inpatient Volume Expectations

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Hospitals with dangerously low inpatient volume and micro hospitals focused primarily on the delivery of outpatient and/or emergency room services instead of inpatient services beware: CMS (Centers for Medicare and Medicaid Services) recently released long awaited clarifications to its prior guidance to CMS surveyors as to what it means to qualify as a “hospital” in the Medicare Program. Under these clarifications CMS surveyors will determine whether a facility purporting to be a hospital is “primarily engaged in providing inpatient services.” **If it is not, the facility may not be certified by CMS as a hospital or, if already certified, be at risk of having its provider agreement revoked.** Whether these clarifications will spawn new challenges by CMS to the status of newly applying or currently certified hospitals as we have seen over the course of the last several years remains to be seen, but nonetheless should be taken seriously by the provider community.

Hospitals with low inpatient census concerned about their compliance with this standard, should keep the following key aspects of the guidance in mind:

- CMS looks at a variety of factors, and not any one benchmark, in order to determine compliance with the standard, including average daily census (ADC), average length of stay (ALOS), the number of outpatient locations, the number of provider-based emergency departments, the number of inpatient beds relative to the size of the facility and services offered, the volume of outpatient surgeries compared to inpatient surgeries, etc.;

- Among other factors, CMS will use benchmarks for average daily census (ADC) of at least two and hospitals’ average length of stay (ALOS) of at least two midnights data as initial

measures in determining if the hospital is primarily engaged in providing inpatient services and care to inpatients;

- CMS states that if the facility does not have a minimum ADC of two inpatients and an ALOS of at least two nights over the past 12 months, the facility is most likely not primarily engaged in providing care to inpatients, and CMS will consider the above list of factors to determine whether a second survey should be attempted, or recommend a denial of an initial applicant or termination of a provider agreement. CMS will look at the facility in totality when making a final determination.

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