

PUBLICATION

CMS Proposes Enhanced Role for Non-Physician Practitioners in Rural Health Clinics [Ober|Kaler]

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Recognizing the difficulty many rural health clinics (RHCs) face when recruiting health care practitioners, CMS recently proposed to change its interpretation of the Rural Health Clinic Services Act and allow RHCs to contract with, rather than employ, non-physician practitioners (NPPs). RHCs currently cannot be paid by Medicare for services furnished by contracted NPPs without a waiver. The [proposed rule \[PDF\]](#) was published on September 23, 2013, with the proposed prospective payment system for federally qualified health centers. **Comments are due by November 18, 2013.**

As proposed, CMS seeks to allow RHCs the added flexibility of contracting with NPPs — specifically, nurse practitioners, physician assistants, certified nurse midwives, clinical psychologists, and certified social workers. However, RHCs must employ at least one nurse practitioner or physician assistant before entering into independent contractor agreements with other NPPs. CMS has interpreted the term “employ” to mean that the RHC issues an IRS Form W-2 to the employee.

CMS previously interpreted the Rural Health Clinic Services Act to require every physician assistant and nurse practitioner to be employed, because the Act states that an RHC “employs a physician assistant or nurse practitioner.” CMS had also interpreted this to mean that RHCs lacked the authority to contract with these practitioners other than on an employment basis.

Ober|Kaler's Comments

CMS' proposed rule seeks to respond to RHCs increased need for staffing flexibility. RHCs that obtain a waiver to the employment requirement would also be allowed to have independent contractor NPPs.

The change allows RHCs to treat their nurse practitioners in the same manner as physicians. This becomes important as states continue to expand and modernize the independent authority of nurse practitioners to practice in independent settings.

The relaxed staffing requirements likely cannot come soon enough for many RHCs, with the roll-out of the Affordable Care Act and the potential for a significant increase in the demand for primary care and other Part B services provided at RHCs.