

PUBLICATION

CMS Proposes Extensive Emergency Preparedness Rules [Ober|Kaler]

February 20, 2014

On December 26, 2013, CMS [proposed emergency preparedness rules \[PDF\]](#) in the form of conditions of participation and conditions of coverage. These rules would apply to hospitals (including critical access hospitals), ambulatory surgical centers, long term care facilities, intermediate care facilities, home health agencies, hospices, comprehensive outpatient rehabilitation facilities, community mental health centers, end-stage renal disease facilities, rural health clinics, programs of all-inclusive care for the elderly, transplant centers and religious nonmedical health care institutions. **The comment due date has been extended to March 31, 2014.**

In preparing this rule, CMS reviewed related guidance from the Food and Drug Administration, Centers for Disease Control and Prevention, the Health Resources and Services Administration, and the Office of the Assistant Secretary for Preparedness and Response. CMS also reviewed its existing guidance and found it lacking in the following areas: (1) communication to coordinate with other systems of care within local jurisdictions or states, (2) contingency planning, and (3) training of personnel.

CMS has incorporated into its proposed rules, the following four core elements that it has identified as central to an effective emergency preparedness system:

Risk Assessment and Planning

The first step in developing an emergency preparedness plan is for each provider to conduct a risk assessment using an “all-hazards” approach. This is an integrated approach that focuses on capacities and capabilities that are critical to preparedness for a full spectrum of emergencies and disasters, focuses on the location of the provider and the most likely types of hazards to occur in that area, and takes into consideration the type of provider.

Policies and Procedures

Providers would be required to develop policies and procedures based on the provider's risk assessment and planning. The policies and procedures would have to be reviewed annually.

Communication Plans

Each provider would have to develop a communication plan that focuses on coordination of patient care internally, as well as externally with other health care providers, state and local public health departments, and emergency systems. This includes provisions to maintain patient confidentiality, compliant with HIPAA.

Training and Testing

Each facility would have to develop and maintain an emergency preparedness training and testing program. The program would require initial, as well as annual, training. Drills and exercises to test the emergency plan would be required.

Ober|Kaler's Comments

CMS's proposed rules provide for more extensive and robust planning and training for emergency preparedness than currently exists. Each provider's plan needs to be tailored to the specific needs of its

facilities and its patients, as well as be reviewed and updated annually. Providers should review the CMS proposed rules and provide comments to CMS on their effectiveness and reasonableness, as applicable. Comments are due by February 25, 2014.