

Dated: September 2, 1998.

**John P. Burke III,**

*HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

[HCFA-2029-PN]

RIN 0938-A169

#### Medicare and Medicaid Programs; Recognition of the Community Health Accreditation Program, Inc. (CHAP) and Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for Hospices

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Proposed notice.

**SUMMARY:** This notice announces the receipt of applications from CHAP and JCAHO for recognition as national accreditation programs for hospices that wish to participate in the Medicare or Medicaid programs. The Social Security Act requires that the Secretary publish a notice identifying the national accreditation body making the request, describing the nature of the request, and providing a 30-day public comment period.

**DATES:** Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on or before October 13, 1998.

**ADDRESSES:** Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA-2029-PN, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5-09-26, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Because of staffing and resource limitations, we cannot accept audio, visual, or facsimile (FAX) copies of comments. In commenting, please refer to file code HCFA-2029-PN. Comments

received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690-7890). **FOR FURTHER INFORMATION CONTACT:** Joan C. Berry, (410) 786-7233.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospice provided certain requirements are met. The regulations specifying the Medicare conditions of participation for hospice care are located in 42 CFR part 418. These conditions implement section 1861(dd) of the Social Security Act (the Act), which specifies services covered as hospice care and the conditions that a hospice program must meet in order to participate in the Medicare program. Other relevant sections of the Act are sections 1812(a)(4) and (d) which specify eligibility requirements for the individual and the benefit periods; section 1813(a)(4) which specifies coinsurance amounts; sections 1814(a)(7) and 1814 (i)(1)(A) which contain conditions and limitation on coverage of, and payment for, hospice care; and sections 1862(a)(1), (6), (9) which establish limits on hospice coverage.

Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to the activities relating to the survey and certification of facilities are at 42 CFR part 488. Our regulations at 42 CFR part 418 specify the conditions that a hospice must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for facility services.

Generally, in order to enter into an agreement, a hospice must first be certified by a State survey agency as complying with the conditions or standards set forth in part 418 of our regulations. Then, the hospice is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(b)(1) of the Act permits "accredited" hospices to be exempt from routine surveys by State survey agencies to determine compliance with Medicare conditions of participation. Section 1865(b)(1) of the Act provides that if the Secretary finds that

accreditation of a provider entity by a national accreditation body demonstrates that all applicable conditions are met or exceeded, the Secretary "deems" those requirements to be met by the hospice. Our regulations concerning approval of accrediting organizations are set forth at §§ 488.6 and 488.8. To date, we have not recognized any organization as an accreditation organization for hospices.

##### II. Approval of Deeming Organizations

Section 1865(b)(2) of the Act further requires that the Secretary's findings concerning review and approval of national accrediting organizations consider, among other factors, the applying accreditation organization's requirements for accreditation, its survey procedures, its ability to provide adequate resources for conducting required surveys and ability to supply information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide the Secretary with necessary data for validation.

Section 1865(b)(3)(A) of the Act requires that the Secretary publish, within 60 days of the receipt of an organization's complete application, a notice identifying the national accreditation body making the request, describing the nature of the request, and providing at least a 30-day public comment period. Subsequently, the Secretary has 210 days from the receipt of the request to publish a finding of approval or denial of the application.

The purpose of this notice is to notify the public of the request of CHAP and of JCAHO for approval of their requests that the Secretary find that their separate accreditation programs for hospice care meet or exceed the Medicare conditions. This notice also solicits public comment on the ability of each body's requirements to meet or exceed the Medicare conditions of participation.

##### III. Evaluation of Deeming Request

On July 6, 1998, CHAP and JCAHO submitted all the necessary information concerning their request to be approved as deeming organizations for hospices to permit us to make a determination. Under section 1865(b)(2) of the Act and our regulations at § 488.8 ("Federal review of accreditation organizations") our review and evaluation of a national accreditation organization will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of CHAP's and JCAHO's requirements for a hospice to our comparable hospice requirements.
- CHAP's and JCAHO's survey processes, to determine the following:
  - The composition of the survey team, surveyor qualifications, and CHAP's and JCAHO's ability to provide continuing surveyor training.
  - The comparability of their processes to those of State agencies, including survey frequency, and their ability to investigate and respond appropriately to complaints against accredited facilities.
  - Their procedures for monitoring providers or suppliers found by CHAP or JCAHO to be out of compliance with program requirements. (These procedures are used only when CHAP or JCAHO identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified at § 488.7(b)(3).)
  - Their ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
- The ability of CHAP and JCAHO to provide us with electronic data in ASCII comparable code and any reports necessary for effective validation and assessment of their survey processes.
- The adequacy of CHAP's and JCAHO's staff and other resources, and their financial viability.
- CHAP's and JCAHO's ability to provide adequate funding for performing required surveys.
- CHAP's and JCAHO's policies with respect to whether surveys are announced or unannounced.

CHAP's and JCAHO's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

#### IV. Notice Upon Completion of Evaluation

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a notice in the **Federal Register** announcing the result of our evaluation.

(Authority: Sec. 1865(b)(3)(A) of the Social Security Act (42 U.S.C. 1395bb(b)(3)(A)). (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance))

Dated: August 19, 1998.

**Nancy-Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 98-24555 Filed 9-10-98; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

[HCFA-1097-N]

RIN 0938-AJ19

### Medicare Program; September 28, 1998, Meeting of the Practicing Physicians Advisory Council

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Practicing Physicians Advisory Council. This meeting is open to the public.

**DATES:** The meeting is scheduled for September 28, 1998, from 8:30 a.m. until 5 p.m., E.S.T.

**ADDRESSES:** The meeting will be held in the Auditorium, 1st Floor, Health Care Financing Administration Building, 7500 Security Boulevard, Baltimore, Maryland 21244.

#### FOR FURTHER INFORMATION CONTACT:

Aron Primack, MD, MA, FACP, Executive Director, Practicing Physicians Advisory Council, Room 435-H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, DC 20201, (202) 690-7874.

**SUPPLEMENTARY INFORMATION:** The Secretary of the Department of Health and Human Services (the Secretary) is mandated by section 1868 of the Social Security Act to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Health Care Financing Administration not later than December 31 of each year.

The Council consists of 15 physicians, each of whom has submitted at least 250

claims for physicians' services under Medicare or Medicaid in the previous year. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 members must be doctors of medicine or osteopathy authorized to practice medicine and surgery by the States in which they practice. Members have been invited to serve for overlapping 4-year terms. In accordance with section 14 of the Federal Advisory Committee Act, terms of more than 2 years are contingent upon the renewal of the Council by appropriate action before the end of the 2-year term.

The Council held its first meeting on May 11, 1992.

The current members are: Jerold M. Aronson, M.D.; Richard Bronfman, D.P.M.; Wayne R. Carlsen, D.O.; Gary C. Dennis, M.D.; Mary T. Herald, M.D.; Ardis Hoven, M.D.; Sandral Hullett, M.D.; Jerilynn S. Kaibel, D.C.; Marie G. Kuffner, M.D.; Marc Lowe, M.D.; Derrick K. Latos, M.D.; Sandra B. Reed, M.D.; Susan Schooley, M.D.; Maisie Tam, M.D.; and Kenneth M. Viste, Jr., M.D. The chairperson is Kenneth M. Viste, Jr., M.D. The vice chairperson is Marie G. Kuffner, M.D.

Council members will receive updates on documentation guidelines, Y2K, and coverage procedure. The agenda will provide for discussion and comment on the following topic(s)—

- Advanced Beneficiary Notices;
- PRO 6th Scope of Work; and
- Regulatory Workload for Physicians.

Individuals or organizations that wish to make 5-minute oral presentations on the agenda issues should contact the Executive Director by 12 noon, September 18, 1998, to be scheduled. The number of oral presentations may be limited by the time available. A written copy of the oral remarks should be submitted to the Executive Director no later than 12 noon, September 23, 1998. Anyone who is not scheduled to speak may submit written comments to the Executive Director by 12:00 noon, September 23, 1998. The meeting is open to the public, but attendance is limited to the space available.

(Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Public Law 92-463 (5 U.S.C. App. 2, section 10(a)); 45 CFR Part 11.)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)