

standards to create an overall "score." Surveyors evaluate and document the Medicare requirements by hand-entering data on printed forms, while the JCAHO standards are evaluated using data entry into a computerized algorithm. JCAHO is reinforcing correct identification and documentation of Medicare problems by its surveyors in its January 2000 training. These Medicare findings are supported and expanded by the results of the JCAHO computerized assessment, which aids in the identification of systemic problems. Validation of these systemic problems is done through appropriate follow-up, either by on-site survey or through documented evidence, as appropriate, within 30 days.

- *Complaint process.* JCAHO has provided us with detailed information about its current definitions of and criteria for determining the severity of complaints and the process for handling complaints for each severity level. This process does not include any routine reporting of such complaints to us. JCAHO appropriately is postponing changing this complaint process so that its changes will conform to our new requirements for an improved complaint interface process, currently under development, as soon as it is promulgated.

- *State and local requirements.* JCAHO has clarified that "[w]hen any Joint Commission standard has the phrase, 'applicable law and regulation' included within the standard or intent, surveyors are instructed that the requirements of the most stringent law or regulation are those to be followed and surveyed for compliance." It has also provided us with the procedures it uses to instruct its surveyors to apply when they are unsure of whether or not a facility meets these requirements.

- *Fraud and abuse identification and reporting.* JCAHO confirmed that its "survey process specifically evaluates the billing and eligibility practices of organizations, as well as ethical behaviors." Any violation would be included in the routine reports subsequent to any survey to the regional office within 10 days of the last survey.

In addition to these changes, JCAHO provided a revised crosswalk incorporating all the changes necessitated by our requests.

B. Term of Approval

Based on the review and observations described in section III.A of this notice we have determined that JCAHO's requirements for HHAs meet or exceed our requirements. Therefore, we recognize JCAHO as a national accreditation organization for HHAs that request participation in the Medicare

program, effective February 22, 2000, through March 31, 2005.

IV. Paperwork Reduction Act

This document does not impose any information collection and recordkeeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with granting and withdrawal of deeming authority to national accreditation organizations, codified in 42 CFR part 488, "Survey, Certification, and Enforcement Procedures," are currently approved by OMB under OMB approval number 0938-0690, with an expiration date of June 30, 2002.

V. Regulatory Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96-354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice recognizes JCAHO as a national accreditation organization for HHAs that request participation in the Medicare program. There are neither significant costs nor savings for the program and administrative budgets of Medicare. Therefore, this notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

Therefore, we have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we

are not preparing analyses for either the RFA or section 1102(b) of the Act.

In an effort to better assure the health, safety, and services of beneficiaries in HHAs already certified, as well as to provide relief to State budgets in this time of tight fiscal constraints, we deem HHAs accredited by JCAHO as meeting our Medicare requirements. Thus, we continue our focus on assuring the health and safety of services by providers and suppliers already certified for participation in a cost-effective manner.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by OMB.

In accordance with Executive Order 13132, we have determined that this notice will not significantly affect the rights of States, local or tribal governments.

(**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) (Catalog of Federal Domestic Assistance Program No. 93.778—Medical Assistance Programs)

Dated: February 7, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00-4155 Filed 2-18-00; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA-2059-FN]

RIN 0938-AJ69

Medicare and Medicaid Programs; Reapproval of the Deeming Authority of the Community Health Accreditation Program, Incorporated (CHAP) for Home Health Agencies (HHAs)

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

ACTION: Final notice.

SUMMARY: This notice announces the reapproval of the Community Health Accreditation Program, Incorporated (CHAP) as a national accreditation organization for home health agencies (HHAs) that request participation in the Medicare program. We have found that CHAP's standards for HHAs meet or exceed those established by the Medicare program. Therefore, HHAs accredited by CHAP will be granted deemed status under the Medicare program.

EFFECTIVE DATE: This final notice is effective February 22, 2000, through March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Joan C. Berry, (410) 786-7233.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1861(o) and 1891 of the Social Security Act (the Act) and part 484 of the Medicare regulations specify the conditions that a home health agency (HHA) must meet in order to participate in the Medicare program. Generally, in order to enter into an agreement with Medicare, an HHA must first be certified by a State survey agency as complying with the conditions or standards set forth in part 484 of the regulations. Then, the HHA is subject to routine surveys by a State survey agency to determine whether it continues to meet Medicare requirements.

There is an alternative, however, to surveys by State agencies. Section 1865(b)(1) of the Act permits "accredited" HHAs to be exempt from routine surveys by State survey agencies to determine compliance with Medicare conditions of participation. Accreditation by an accreditation organization is voluntary and is not required for Medicare certification. Section 1865(b)(1) of the Act provides that, if a provider is accredited by a national accreditation body under a set of standards that meet or exceed the Medicare conditions, the Secretary can "deem" that HHA as having met the Medicare requirements for those conditions.

Our regulations concerning reapproval of accrediting organizations are set forth at 42 CFR 488.4 and 488.8(d)(3). Section 488.8(d)(3) requires reapplication at least every 6 years and permits the Secretary to determine the required materials from those enumerated in § 488.4, as well as the deadline to reapply for continued approval of deeming authority. We have determined that the procedures set out in section 1865(b)(3)(A) of the Act for initial applications for deeming authority should apply to renewals as well. These procedures require us to— (1) publish a notice in the **Federal Register** within 60 days after receiving an accreditation organization's written request that we make a determination regarding whether its accreditation requirements continue to meet or exceed Medicare requirements; (2) identify in the notice the organization and the nature of the request and allow a 30-day public comment period; and (3) publish a notice of our approval or

disapproval within 210 days after we receive the organization's application and complete package of information.

II. Provisions of the Proposed Notice

On September 10, 1999, we published a proposed notice in the **Federal Register** (64 FR 49198) announcing the receipt of an application from CHAP for renewal of its privileges as a national accreditation organization for HHAs. In the proposed notice, we detailed the factors on which we would base our evaluation. Under section 1865(b)(2) of the Act and our regulations at § 488.8(d)(3)(i), our review and evaluation of the CHAP application were conducted in accordance with the following procedures:

- An on-site administrative review of the following: (1) The accrediting organization's corporate policies; (2) its financial and human resources available to accomplish the proposed surveys; (3) the training, monitoring, and evaluation of its surveyors, (4) its ability to investigate and respond appropriately to complaints against accredited facilities; and (5) its survey review and decision-making process for accreditation.

- A determination of the equivalency of CHAP's standards for an HHA to our comparable HHA conditions of participation.

- A review, both through documentation and on-site observation, of CHAP's survey processes to determine—

- The comparability of CHAP's processes to those of State agencies, including survey frequency and whether surveys are announced or unannounced;
- The adequacy of the guidance, instructions, and survey forms CHAP provides to surveyors; and
- CHAP's procedures for monitoring providers or suppliers found to be out of compliance with our requirements (these procedures are used when CHAP identifies noncompliance).

- CHAP's procedures for responding to complaints and for coordinating these activities with appropriate Federal, State, and local licensing bodies and ombudsmen programs.

- CHAP's policies and procedures for identifying potential fraud and abuse, and its coordination with or reporting to us.

- CHAP's survey team, the content and frequency of the in-service training provided, the evaluation systems used to assess the performance of surveyors, and potential conflict-of-interest policies and procedures.

- CHAP's data management system and reports used to—

- Assess its surveys and accreditation decisions; and

- Provide us with electronic data and new statistical validation information including—

- + The number, accreditation status, and resurvey cycle for facilities;

- + The number, types, and resolution times for follow-up when deficiencies are detected during surveys;

- + The 10 most common deficiencies found in surveyed HHAs; and

- + The number of actionable cases of noncompliance and an indication of the method and timeframe for resolution including plans of correction, if any.

- A review of all types of accreditation status CHAP offers and the extent to which each type corresponds with HCFA's standards of compliance.

- The adequacy of CHAP's staff and other resources to perform the surveys, and its financial viability.

- CHAP's written agreement to—

- Meet our requirements to provide to all relevant parties timely notifications of changes to accreditation status or ownership, to report to all relevant parties remedial actions or situations of immediate jeopardy, and to conform its requirements to changes in Medicare requirements; and

- Permit its surveyors to serve as witnesses for us in adverse actions against its accredited facilities.

In accordance with section 1865(b)(3)(A) of the Act the proposed notice also solicited public comment on whether CHAP's requirements meet or exceed the Medicare conditions of participation for HHAs. We received no public comments in response to our proposed notice.

III. Provisions of the Final Notice

A. Differences between CHAP and Medicare's Conditions and Survey Requirements

Our review and evaluation of the CHAP application, which were conducted as detailed in section II of this notice, yielded the following information.

We compared the standards contained in CHAP's "1999 Standards of Excellence for HHA Organizations," in both the "Core" (section regarding administrative standards applicable to all facilities deemed by CHAP) and "Home Health Organizations Standards" sections and CHAP's survey process as outlined in its "Site Visitor Training Manual," supplemented by flow charts comparing the survey process, deficiency resolution, complaint monitoring, and accreditation decision making with the Medicare

conditions of participation and our "State and Regional Operations Manual." In six areas CHAP has made the following revisions or clarifications:

- CHAP incorporated language to address the provisions of § 484.10(d) (Privacy Act provisions that apply when gathering OASIS data on patients).

- CHAP added specificity to its crosswalk covering provisions of § 484.14(f) and (h), to indicate that during each survey they assess contracts for services or personnel provided under arrangement. Where clinical services are supplied, CHAP clarified that it reviews an HHA's certifications and competencies as well as its backup procedures.

- CHAP provided us with revised pages to its "Core" standards reflecting the requirements at § 484.55, setting out the way in which the collection, use, and reporting of OASIS data in home health agencies will be assessed by surveyors for compliance with the regulation.

- CHAP provided us with additional information from its revised policy and procedure manual specifying its procedures and timeframes for withdrawals and involuntary termination of deemed accreditation, its requirements for reporting such withdrawals to HCFA, and when an HHA may reapply for deemed status accreditation.

- CHAP provided evidence that its fraud and abuse policy and training programs, both through teleconference updates and annual training, provide opportunities for surveyors to discuss how to identify and appropriately report instances of potential Medicare fraud and abuse.

- CHAP provided us with additional materials with respect to its appraisal of surveyor or visitor performance including the information covered, who conducts the appraisals and when, and how site visitor weaknesses are identified and corrected to assure consistency and quality in the survey process.

In addition to these changes, CHAP provided a revised crosswalk incorporating all the changes necessitated by our requests.

B. Term of Approval

Based on the review and observations described in section III. A of this notice we have determined that CHAP's requirements for HHAs meet or exceed our requirements. Therefore, we recognize CHAP as a national accreditation organization for HHAs that request participation in the Medicare program, effective February 22, 2000, through March 31, 2005.

IV. Paperwork Reduction Act

This document does not impose any information collection and recordkeeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with granting and withdrawal of deeming authority to national accreditation, codified in 42 CFR part 488, "Survey, Certification, and Enforcement Procedures," are currently approved by OMB under OMB approval number 0938-0690, with an expiration date of June 30, 2002.

V. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96-354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice recognizes CHAP as a national accreditation organization for HHAs that request participation in the Medicare program. There are neither significant costs nor savings for the program and administrative budgets of the Medicare program. This notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

Therefore, we have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

In an effort to better assure the health, safety, and services of beneficiaries in HHAs already certified, as well as to provide relief to State budgets in this time of tight fiscal constraints, we deem HHAs accredited by CHAP as meeting our Medicare requirements. Thus, we continue our focus on assuring the health and safety of services by providers and suppliers already certified for participation in a cost effective manner.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by OMB.

In accordance with Executive Order 13132, Federalism, we have determined that this notice will not significantly affect the State, local or tribal governments.

(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) (Catalog of Federal Domestic Assistance Program No. 93.778—Medical Assistance Programs)

Dated: February 7, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00-4156 Filed 2-18-00; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA-2057-FN]

RIN 0938-AJ66

Medicare and Medicaid Programs; Recognition of the American Osteopathic Association (AOA) for Continued Approval of Deeming Authority for Hospitals

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

ACTION: Final notice.

SUMMARY: This notice announces the reapproval of the American Osteopathic Association (AOA) as a national accreditation organization for hospitals that request participation in the Medicare program. We believe that continuing accreditation of hospitals by AOA demonstrates that all Medicare hospital conditions of participation are met or exceeded. Thus, we grant deemed status to those hospitals accredited by AOA.

EFFECTIVE DATE: This final notice is effective February 22, 2000, through March 31, 2005.