



Center for Medicaid and State Operations/Survey & Certification Group

Ref: S&C-09-49

**DATE:** August 7, 2009

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** Initial Surveys of Critical Access Hospitals (CAH) Distinct Part Units (DPUs)  
Changed to Tier 4 Priority Status

**Memorandum Summary**

CAH DPU initial survey priority is changed from Tier 3 to Tier 4, effective October 1, 2009.

This memorandum amends the guidance contained in S&C-08-03, issued on November 5, 2007, concerning the workload priority for initial surveys of CAH DPUs.

Longstanding Centers for Medicare & Medicaid Services (CMS) policy makes statutorily-required surveys, complaint investigations, recertifications, and core infrastructure work for existing Medicare providers a higher priority than certification of new Medicare providers. Accordingly, initial surveys for those providers seeking to participate in Medicare for the first time are prioritized as Tier 4 (lowest priority) for CMS and State survey agency (SA) work whenever an option to become Medicare-certified on the basis of accreditation under a CMS-recognized accreditation organization (AO) program is available.

At the time that S&C-08-03 was issued, the AOs with CMS-recognized CAH accreditation programs (The Joint Commission and the American Osteopathic Association) lacked recognition for their accreditation of CAH DPUs. As a result, initial surveys of distinct part psychiatric and rehabilitation units in CAHs were assigned Tier 3 priority status. Subsequently, both AOs' applications for renewal of recognition of their CAH programs were approved by CMS and now extend to CAH DPUs as well. Because a comprehensive accreditation option is available for CAHs, initial surveys of DPUs will be prioritized as Tier 4, effective October 1, 2009.

As a reminder, conversion of a non-accredited hospital to a CAH or of a CAH to a hospital is not considered an initial survey. At State option, conversions may be done as Tier 2, 3, or 4. However, the addition of swing beds as a new service in an existing CAH remains Tier 4 priority, the same as a new nursing home would be if started by a non-hospital.

Please note that this amended guidance does *not* apply to Hospital IPPS-excluded psychiatric or rehabilitation units. Attached is an explanation of the legal basis for the difference in processing initial certifications of CAH DPUs compared to Hospital IPPS-excluded units (see Attachment 1).

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If you have any questions regarding this memorandum, please contact Kimberly DeMichele at [Kimberly.DeMichele@cms.hhs.gov](mailto:Kimberly.DeMichele@cms.hhs.gov).

**Effective Date:** October 1, 2009. Please ensure that all personnel are appropriately informed within 30 days of this memorandum.

**Training:** This information should be shared with all appropriate survey and certification staff, surveyors, and the affected provider community.

/s/

Thomas E. Hamilton

Encl.: (1)

cc: Survey and Certification Regional Office Management

### **Hospital IPPS-excluded Units vs CAH DPUs Differences in Processing Initial Certifications**

Accreditation Organization (AO) deeming options are *not* available for determining compliance with the excluded hospital psychiatric or rehabilitation unit criteria because:

- Hospital IPPS-exclusion criteria for psychiatric and rehabilitation units are specified solely in the Medicare payment regulations at 42 CFR Part 412 and not included in any hospital Conditions of Participation.
- AOs with hospital deeming programs approved by CMS have authority under the Social Security Act to deem compliance with the Medicare hospital Conditions of Participation only. They have no authority to assess compliance with payment rules.
- As a result, hospitals have no AO option to demonstrate the compliance of their psychiatric and rehabilitation units with the payment requirements at 42 CFR Part 412.
- Since limited resources do not allow SAs to conduct initial onsite surveys of IPPS-excluded units to verify compliance with IPPS-exclusion criteria, CMS decided to employ instead a self-attestation process, as described in S&C-08-03.

In contrast, AO deeming options *are* available for determining compliance with CAH DPU requirements because:

- The CAH DPU requirements are found in the CAH Condition of Participation at §485.647. To the extent that certain payment provisions of 42 CFR Part 412 also apply, they do so only because they are specifically cross-referenced at §485.647.
- AOs with CAH deeming programs recognized by CMS must include in those programs standards at least equivalent to the CAH DPU Conditions of Participation requirements.
- Therefore, CAHs, unlike hospitals, have an AO option available for their psychiatric and rehabilitation units
- Since CAHs have an AO option to verify their compliance with the participation requirements, there is no need for CMS to substitute a self-attestation process to be used in lieu of a SA on-site survey.