

Office of Clinical Standards and Quality/ Survey & Certification Group

Ref: S&C: 12-33-AO

DATE: May 25, 2012

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Approval of the American Association for Accreditation of Ambulatory Surgery Facilities' (AAAASFs') Rural Health Clinic (RHC) Accreditation Program

Memorandum Summary

Accreditation Organization (AO) Deeming Approval for RHCs:

- The Centers for Medicare & Medicaid Services (CMS) has recognized AAAASF as a national AO with an approved accreditation program for RHCs seeking to participate in the Medicare or Medicaid programs.
- This approval provides RHCs with an accreditation option which previously did not exist.

Section 1865(a) of the Social Security Act (the Act) permits providers and suppliers accredited by an approved national accrediting body to be “*deemed*” to meet Medicare Conditions for Coverage (CfC), Conditions for Participation (CoP) or Conditions for Certification. To receive approval, a national AO must demonstrate to CMS that their accreditation program requirements meet or exceed the Medicare conditions.

CMS reviewed AAAASF’s application for approval of its RHC accreditation program in accordance with the requirements at 42 CFR part 491. CMS reviewed AAAASF’s survey and accrediting process, as well as its health and safety standards. CMS’ review determined that AAAASF’s accreditation program for RHCs meets or exceeds the Medicare Conditions for Certification.

CMS announced its approval of AAAASF’s accreditation program for RHCs in the March 23, 2012, *Federal Register* <http://www.gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-6331.pdf>. This is an initial four year approval effective March 23, 2012 through March 23, 2016. This approval provides RHCs with an accreditation option which previously did not exist. Deeming authority for this program is limited to the Medicare Conditions for Certification and does not apply to ownership, enrollment, or other Medicare certification requirements. Attachment A contains talking points for use by Regional Office and State Agency staffs. Attachment B is a resource document that contains frequently asked questions.

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If you have any questions regarding this memorandum, please contact Cindy Melanson at 410-786-0310 or via E-mail at cindy.melanson@cms.hhs.gov.

Effective Date: Immediately. This policy should be communicated to all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

/s/

Thomas E. Hamilton

Attachments: 2

Attach A -Talking points for AAAASF RHC Final Notice

Attach B - FAQs AAAASF RHC

cc: Survey and Certification Regional Office Management

CMS-2901-FN Approval of the American Association of Ambulatory Surgery Facilities, (AAAASF) Rural Health Clinic Accreditation Program

- This notice announces our decision to approve AAAASF for recognition as a national accreditation program for rural health clinics (RHCs) seeking to participate in the Medicare or Medicaid programs.
- This is an initial 4 year approval effective March 23, 2012 through March 23, 2016.
- This approval provides RHCs with an accreditation option that previously did not exist.
- Section 1865(a)(3)(A) of the Social Security Act (the Act) provides a statutory timetable for processing and reviewing applications of an accreditation program. The Act allows CMS 210 calendar days to complete review activities and publish an approval or disapproval. In order for our decision on AAAASF's RHC accreditation program to be completed timely, our findings must be published in the Federal Register by March 26, 2012.
- We anticipate that the Congress, the public and RHCs will react favorably to this notice.

Frequently Asked Questions

Approval of the American Association for Accreditation of Ambulatory Surgery Facilities' (AAAASF) Rural Health Clinic (RHC) Accreditation Program

Q-1. What does the approval of the AAAASF' RHC accreditation program mean?

A-1. Section 1865(a) of the Social Security Act provides that CMS may recognize national accrediting organizations (AOs) which demonstrate that their health and safety standards survey and oversight processes meet or exceed those used by CMS to determine a provider or supplier's compliance with the Medicare requirements.

Effective May 23, 2012, RHCs accredited by AAAASF for the purposes of Medicare participation may be "deemed" by CMS to have satisfied Medicare's health and safety standards. For such facilities, the State survey agency (SA) does not conduct a survey to certify or recertify the compliance of a facility with the Medicare conditions for certification. Rather, RHCs remain under the jurisdiction of the AO, not the SA, for oversight of their ongoing compliance, unless the SA conducts a validation or complaint survey at the direction of CMS and CMS determines as the result of a survey, that the provider fails to comply with one or more of the conditions for certification.

Q-2 How will complaints be handled for RHCs accredited and deemed by AAAASF?

A-2. The complaint process for RHCs accredited by AAAASF and granted deemed status based on this accreditation remains the same. It is the same process used for any other deemed provider or supplier.

If AAAASF receives the complaint, AAAASF is responsible for conducting any necessary follow-up investigation. If the SA receives the complaint, they must refer the complaint to the Regional Office (RO). The RO triages the complaint and, if appropriate, authorizes the SA to conduct the complaint investigation. If the RO receives a complaint, the RO may either send in Federal survey team or authorize the SA to conduct the complaint investigation.

Q-3. What about RHCs seeking an initial certification survey for participation in Medicare?

A-3. Providers and suppliers that have a CMS-approved accreditation option are advised that such deemed accreditation is likely to be the fastest route to certification. Initial certification surveys of providers and suppliers that have such an accreditation option remain a Tier 4 priority for States. This is the lowest priority for completion of the States Federal Medicare workload. Now that RHCs have a deemed accreditation option, they are advised that this option is likely the fastest route to certification. See S&C memo 08-03, Initial Surveys for New Medicare Providers, issued November 5, 2007.

Q-4. What happens when a SA identifies condition level noncompliance during a complaint investigation?

A-4. If the SA conducts a complaint survey in an AAAASF accredited and deemed RHC, and cites condition level deficiencies, the RO will remove deemed status. The SA will then be authorized to perform a full survey to determine compliance with the Conditions for Certification. If Conditions for Certification are found out of compliance on the full-survey, the RHC will be put on a termination track and the SA will be responsible for oversight until the RHC comes back into compliance.

Q-5. Do RHCs need to submit an updated CMS-855 if it chooses to be deemed by AAAASF's approved accreditation program for RHCs?

A-5. There is no need for RHCs currently participating in the Medicare program to submit an updated CMS-855.

Q-6. Is there a difference in the certification process for a free-standing RHC versus a provider-based RHC?

A-6. No. The certification process is the same. Any applicant which meets the RHC certification requirements located at 42 CFR Parts 405 and 491 may be approved to participate in the Medicare program as an RHC and will be issued a CMS Certification Number (CCN).

Q-7. How will freestanding and provider-based CCNs be assigned?

A-7. The RO survey and certification staff is responsible for provider agreements/supplier approvals, including assigning CCNs. The CCN numbering system makes a distinction between RHCs which are provider-based to a hospital or CAH and those that are freestanding. Once the final application package has been approved by the RO survey and certification staff, a Medicare Approval letter, indicating the appropriate CCN, will be issued to the clinic. Any applicant which meets the RHC certification requirements at 42 CFR Parts 405 and 491, and which indicates on its form CMS-29 that it is provider-based to a hospital/critical access hospital (CAH) would be issued a provider-based CCN.

Q-8. Once a clinic is issued a provider-based CCN, does that mean an official CMS provider-based determination has been made?

A-8. No. Issuance of a provider-based CCN to a RHC allows the clinic to begin billing for services; however, it does **not** constitute a provider-based determination by CMS. To receive a CMS provider-based determination, the hospital or CAH may submit a self-attestation to the RO Division of Financial Management.

Q-9. Is a facility required to submit a provider-based self attestation?

A-9. Under the provider-based rules at 42 CFR 413.65, hospitals and CAHs are not required to apply for and receive a provider-based determination from CMS prior to billing for services in facilities that are not part of the hospital's main building as if they are hospital services. However, in accordance with 42 CFR 413.65(b)(3), a provider may choose to obtain a provider-based determination from CMS by submitting a self-attestation stating that the facility meets the relevant provider-based regulatory requirements. The RO Division of Financial Management is

responsible for making the determination as to whether or not a facility meets the provider-based rules.

Q-10 Who is responsible for determining compliance with the requirements at 42 CFR 491.5 Location of Clinic?

A-10 AAAASF is responsible for making a preliminary determination as to whether the RHC is located in a rural that is designated as a shortage area. The Census Bureau will be used for rural determinations and HRSA will be used for shortage area designations. Once a preliminary determination is made, AAAASF would then conduct the survey and provide its recommendation to the Regional Office (RO). The RO will then make the final determination.

Q-11. Once AAAASF has determined an applicant meets the basic location requirements, will that be the final decision?

A-11. No. The CMS RO survey and certification staff will make the final determination as to whether or not the basic location requirements are met. AAAASF will do a preliminary review and approval prior to authorizing a survey. Once the RO receives the final package from AAAASF, it will verify that the clinic is located in a rural and shortage area as defined at 42 CFR 491.5.