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**CMS Bans Certain “Necessary Provider” CAH Relocations  
WHA Proposes Language Fix**

Over the past year, CMS has taken a number of administrative actions that would make it difficult for Critical Access Hospitals (CAH) to modernize their facilities, respond to community needs within their service areas, or join in collaborative quality improvement activities. Taken as a whole, these actions would reverse policy decisions made by Congress over the past ten years – policies that were meant to preserve and enhance the ability of rural citizens to receive quality health care in their local communities.

One item of particular concern is a CMS rule that severely restricts the ability of a necessary provider CAHs to upgrade facilities. Specifically, the rule states:

*CAH is expected to continue to provide services based on the criteria that the State used when initially determining that the CAH was a necessary provider. For example, if the determination was based on the CAH being located in a health professional shortage area (HPSA), then the relocated CAH must continue to be located in a HPSA. (1). Need reference: CMS S&C Letter #07-35 of 09/07/07.*

In a series of correspondences between the Rural Wisconsin Health Cooperative and CMS, it was made clear that the exact same five criteria would have to again be satisfied in order for a CAH to relocate. This requirement would be imposed in spite of changes that may have taken place in the years subsequent to CAH certification beyond the CAH’s control. For example, if the CAH was designated in part due to elderly, poverty or unemployment rates higher than the Wisconsin state average and if even one rate is no longer above the State average, the CAH cannot relocate.

Further complicating matters, CMS has stated that “all newly-constructed, necessary provider CAH facilities are considered relocated facilities.” This applies to an entirely new replacement facility, even if on the original hospital’s campus. WHA finds it extremely difficult to understand this interpretation of “relocation.”

**WHA Position**

This new rule, adopted without a legislated mandate calling for such restrictions, arbitrarily bans some necessary provider CAHs from providing the most convenient and safest facilities to their patients. WHA believes that other CMS rules already prevent abuse of the ability to relocate, such as the requirement a CAH must retain 75% of its original patients, staff and services after a relocation.

It is clear that this CMS relocation rule is meant to unduly restrict the ability of CAHs to make the kinds of improvements in their facilities that are needed and demanded by patients.

WHA firmly believes CMS has overstepped its authority in implementing these rules. We call on Congress to intervene and override them.

**Suggested Legislative Fix**

In order to address the issue, WHA suggests the following legislative language be inserted into appropriate legislation or introduced as its own bill:

*“That, as long as a necessary provider CAH meets all of the other requirements for its status, it be deemed as a necessary provider for purposes of relocation.”*