



CMS draft guidance on hospital co-location offers narrow sharing of hospital space

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On May 3, 2019, the Centers for Medicare & Medicaid Services (CMS) issued draft guidance to be used by state survey agencies in reviewing how shared space, services, personnel and emergency services can be organized by hospitals co-located with another hospital or health care entity to ensure compliance with the Medicare hospital conditions of participation (CoPs).

“Co-location” occurs when two hospitals, or a hospital and another health care entity, are located on the same campus or in the same building and share space, staff or services.

CMS intends the new guidance to change prior CMS guidance prohibiting co-location of hospitals with other health care entities by allowing co-location in specified circumstances without being overly prescriptive. The guidance generally permits sharing the following public areas:

- entrances and lobbies
- waiting rooms
- reception areas (with separate check-in areas and signage)
- public restrooms
- public hallways
- staff lounges
- elevators
- public corridors (through non-clinical areas)

By contrast, the guidance does not permit sharing of clinical areas, such as corridors passing through clinical areas, due to infection control, patient management, privacy and security, and other quality and safety concerns.

Contracting services or staff from another co-located health care entity, including contracting emergency staff to perform the appraisal and initial treatment of emergency patients, is permitted, so long as the contracted staff is dedicated to one hospital or health care entity during any shift. However, each hospital remains responsible for providing all of its services in compliance with the CoPs and for compliance with the Emergency Medical Treatment & Labor Act (EMTALA).

Although the draft guidance offers some relaxation of CMS' prior guidance, it does not provide as much flexibility as some industry stakeholders may have expected. CMS representatives' comments in anticipation of the guidance suggested the guidance might allow hospitals to block lease clinical space on a part-time basis to physicians or other non-hospital providers. The draft guidance does not appear to permit hospitals to do so, however.

CMS is seeking comments by July 2, 2019, prior to issuing final guidance.

Authors
