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## Medicare Conditions of Participation for Community Mental Health Centers

On October 29, 2013, the Centers for Medicare and Medicaid Services (CMS) issued a Final Rule containing conditions of participation (CoPs) for Community Mental Health Centers (CMHCs). The CoPs become effective one year from publication (i.e. October 29, 2014), which means all CMHCs will have one year to implement the provisions of this Final Rule before a CMHC may be audited or surveyed for compliance.

While the CoPs were promulgated in connection with providing guidance to surveyors in their review of partial hospitalization services provided by CMHCs, the CoPs will apply to all other behavioral health services offered by CMHCs regardless of whether or not they are covered by CMS. According to CMS, the CoPs are intended to promote the following:

- A continuous and integrated mental health care process that a client experiences across all CMHC services;
- Activities that center around client assessment, the active treatment plan, and service delivery;
- Use of person-centered, interdisciplinary approaches; and
- Protection of client rights.

The CoPs are set out into six categories that represent these guiding principles. The following sets forth a summary of the CoPs:

- 1. Personnel Qualifications:** The CoPs for Personnel Qualifications set forth the minimum qualifications for Clinical Psychologists, Clinical Social Workers, Social Workers, Mental Health Counselors, Occupational Therapists, Physicians, Physician Assistants (PA), Advance Practice Nurses (APN), Psychiatric Registered Nurses and Psychiatrists. Most of the requirements combine licensure with behavioral health experience. Of interest is that the one non-licensed position referred to as “Social Worker” requires a baccalaureate degree in psychology or sociology, and one year of social work experience in a psychiatric healthcare setting.
- 2. Client Rights:** A CMHC must provide the client with an understandable verbal and written notice of his/her rights and responsibilities. The CoPs outline various client rights and processes that must be followed to address violations of clients rights, including filing of grievances, ensuring reporting of violations, investigation of alleged violations, prevention of further violations, corrective action, and reporting the violation

to the state survey and certification agency within five working days of becoming aware of the violation. Clients have the right to be involved in developing their treatment plan, refuse treatment, have a confidential clinical record, be free from abuse or neglect, and receive information regarding limitations on services. The CoPs also provide standards for the use of restraint and seclusion and the training requirements relating thereto.

3. **Admission, Initial Evaluation, Comprehensive Assessment, and Discharge or Transfer:** A licensed mental health professional must complete an initial evaluation within twenty-four hours of admission and a comprehensive assessment within four working days after admission. The comprehensive assessment must be updated no less frequently than every thirty calendar days, or sooner if there is a change in the client's status, responses to treatment or goal achievement. If the client is transferred, the client's record and a discharge summary must be forwarded within two working days. If the client refuses the services or is discharged due to noncompliance with the treatment plan, the CMHC must forward the client's record and a discharge summary to the client's primary care provider, subject to an authorization to release such records.
4. **Treatment Team, Active Treatment Plan, and Coordination of Services:** A CMHC must designate an interdisciplinary treatment team that is responsible, along with the client, for directing, coordinating and managing the care and services. The team must be led, as appropriate for the client, either by a physician, APN, PA, clinical nurse specialist, clinical psychologist or clinical social worker. The team must establish an individualized, written, active treatment plan within seven working days and it must be reviewed and revised no less frequently than every thirty calendar days, or sooner if the client's condition requires. The CMHC must develop and maintain a system of communication that ensures that the treatment plan is based on assessments of the client and the sharing of information with all providers involved in the client's care both at and outside the CMHC.
5. **Quality Assessment and Performance Improvement:** A CMHC and its governing body are responsible for developing, implementing and maintaining an effective, ongoing data-driven quality assessment and performance improvement program (QAPI Program) that is defined, implemented, maintained and evaluated annually. A CMHC's QAPI Program must yield measurable improvement in indicators related to improving behavioral health outcomes and services.
6. **Organization, Governance, Administration of Services, and Partial Hospitalization Services:** A CMHC must have a designated governing body comprised of two or more individuals, one of which may be the administrator, that assumes full legal authority and responsibility for the management of the CMHC, the services it furnishes, its fiscal operations, and continuous quality improvement. One member of the governing body must possess knowledge and experience as a mental health clinician. The governing body must also appoint an administrator who is responsible for the day-to-day operations of the CHMC. The CoPs require that the CMHC provide at least forty percent of its items and services to individuals who are not Medicare eligible. If a CMHC engages another agency, individual or organization



to provide services, the arrangement must be in writing and include the requirements outlined in the Final Rule. The CMHC must also retain administrative and financial management, including payment responsibility, and oversight of staff and services for all arranged services. A CMHC must provide education about CMHC care and services, including person-centered care, to all employees, volunteers and staff under contract who have contact with clients and their families, must provide an initial orientation that addresses the specific duties of each individual's job and provide in-service education and training where needed. A CMHC must provide a safe, functional, sanitary and comfortable environment conducive to the provision of services. There must be effective infection control policies and procedures. Individual and group therapy sessions must be conducted in a manner that maintains client privacy and dignity. Partial hospitalization services must continue to be provided as outlined in existing regulations.

According to CMS, CMHCs are defined as entities that provide partial hospitalization services under Part B of the Medicare Program. For a CMHC to provide services, it must:

- Be licensed in the state where it is located;
- Provide outpatient services, including services for children, the elderly, individuals who are chronically mentally ill, and residents of its service area who have been discharged from inpatient behavioral health care;
- Provide twenty-four hour emergency care that provides access to a clinician and disposition;
- Provide day treatment, partial hospitalization services, and psychosocial rehabilitation services that provide structured day programs with treatment plans that vary by intensity and the needs of the patient;
- Provide at least forty percent of its items and services to individuals who are not Medicare eligible; and
- Provide screening for patients who are being considered for admission to a state mental health facility.

Please refer to the Final Rule for the entire set of requirements at <http://www.gpo.gov/fdsys/pkg/FR-2013-10-29/pdf/2013-24056.pdf>.

### **Questions?**

Should you have any questions about this Alert or compliance with CoPs in general, please contact any member of Shipman & Goodwin's Health Law Practice Group listed on the first page of this alert.

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