In May 2011, the Centers for Medicare and Medicaid (CMS) released its final rule making changes to Medicare Conditions of Participation (CoP) for hospitals and critical access hospitals (CAH) to create a new process for the credentialing and privileging of telemedicine practitioners. CMS’s intent in implementing these changes is to remove the hardship and financial burden imposed on hospitals and CAHs by current telemedicine credentialing and privileging requirements. The final rule became effective on July 5, 2011.

Previously, the CoP required a hospital or CAH to thoroughly examine and verify credentialing information and make independent decisions to privilege practitioners providing telemedicine services, as if the telemedicine practitioner practiced on-site. These requirements conflicted with The Joint Commission (JC) standards, which permitted a form of “privileging by proxy,” allowing hospitals to grant telemedicine privileges in reliance on credentialing information from the distant site hospital. Because “privileging by proxy” was not permitted by the
Medicare CoPs, JC changed its standards governing privileging of telemedicine practitioners to require a hospital or CAH who uses JC for “deemed status” to make independent privileging decisions but to allow the Medicare participating hospital that otherwise privileged the telemedicine practitioner to serve as a Credentialing Verification Organization (CVO) for the hospitals or CAHs that obtained the telemedicine services. Under the new COPs, subject to certain safeguards, a hospital or CAH now may grant telemedicine privileges, by relying on the credentialing and privileging information of the distant site Medicare-participating hospital. In addition, the CoPs allow the originating site hospital or CAH to grant telemedicine privileges based on credentialing information from a distant site telemedicine entity that is not a Medicare participating hospital, such as a teleradiology entity, referred to as “distant site telemedicine entities” or “DSTEs”.

What Does This Mean?

To use this new “proxy” credentialing and privileging process for telemedicine practitioners, certain requirements must be met. The originating site hospital or CAH (i.e. the hospital or CAH that is obtaining the telemedicine services) must have a written agreement with the distant site hospital or DSTE. If the distant-entity is a Medicare-participating hospital, the governing body of the originating site hospital or CAH must ensure the agreement specifies that it is the distant site hospital’s responsibility to comply with current CMS credentialing and privileging requirements. If the distant site entity is a DSTE, the governing body of the originating site hospital or CAH must ensure the agreement requires the DSTE to furnish the credentialing services, in a manner that enables the originating hospital or CAH to comply with all applicable CoPs and standards.

In addition, the originating site hospital or CAH must ensure, through the written agreement, that:

- If the distant site is a DSTE, the DSTE’s medical staff credentialing and privileging process and standards meet CMS standards
- If the distant site is a Medicare-participating hospital, the distant site practitioner is privileged at the distant site hospital and the distant site hospital provides a current list of the practitioner’s privileges
- The distant site practitioner holds a license issued or recognized by the State in which the originating site hospital whose patients are receiving telemedicine is located
- The originating site hospital or CAH has evidence of an internal review of the distant site practitioner’s performance under the telemedicine privileges and has sent the distant site hospital this information for use in its periodic appraisal of the distant site practitioner. This information should include all adverse events and complaints resulting from the telemedicine services. (Note: compliance with state peer review privilege laws will be important when structuring this transfer of information.)
It is important to note that the credentialing and privileging process provided by the final rule is optional and, if it chooses, a hospital or CAH is still permitted to fully credential and privilege telemedicine practitioners under its requirements.

How Does the Final Rule Relate to The Joint Commission’s Standards for Telemedicine Credentialing and Privileging?

Currently, for hospitals that rely on JC accreditation for deemed status purposes, practitioners providing care, treatment, or services through a telemedicine link are credentialed and privileged to do so at the originating site. If the distant site is a Medicare-participating hospital, the originating site's medical staff may use a copy of the distant site's credentialing packet for privileging purposes. There is no JC requirement for a written agreement or disclosure of complaints and adverse events to the distant site. Also, JC does not recognize the new, broadly defined category of DSTEs. Originating site hospitals that are JC-accredited but do not use JC for deemed status purposes may follow the CoP. We anticipate JC will conform to the new CoPs standards in the near future.

What You Need To Do Now

Hospitals and CAHs should consider whether they want to take advantage of the new CoP for credentialing telemedicine practitioners. If so, the hospital or CAH should review and if necessary update its medical staff bylaws. Form agreements should be developed that incorporate the specific CoP requirements for distant site Medicare-participating hospitals and DSTEs, respectively, and include other beneficial provisions (e.g., protections for patient health information). State law peer review confidentiality standards should be evaluated against the CoP requirement for disclosure of complaints and adverse events concerning the telemedicine practitioner. Until JC updates its standards, hospitals and CAHs that use JC-accreditation for deemed status should wait to fully implement the CoP proxy privileging process.
For More Information

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