

S. 1461, a one year extension of the enforcement instructions on supervision requirements of outpatient therapeutic services in Critical Access Hospitals (CAHs) and small rural hospitals.

Sec. 1. Extension of Enforcement Instruction on Supervision Requirements for Outpatient Therapeutic Services in Critical Access and Small Rural Hospitals through 2015.

Current Law

In the calendar year (CY) 2009 Medicare hospital outpatient prospective payment system (OPPS) final rule, the Centers for Medicare and Medicaid Services (CMS) restated and clarified a 2001 policy that required direct physician supervision for outpatient therapeutic services furnished in a hospital outpatient department unless another supervision level is specified for the service. The final rule discussed that direct supervision means a physician or a non-physician practitioner must be immediately available to furnish assistance and direction throughout a procedure in the hospital outpatient department. Critical access hospitals (CAHs) and small rural hospitals raised concerns that the policy increased confusion about the types of therapeutic services that would fall under the supervision requirements.

In 2010, CMS instructed its Medicare contractors not to evaluate or enforce the supervision requirements for therapeutic services furnished to individuals in CAHs for all of CY 2010. As CMS continued to refine its direct supervision policy, the agency extended its non-enforcement instruction through CY 2011 and expanded it to include both CAHs and small rural hospitals (defined as having 100 or fewer beds, being geographically located in a rural area, or are paid under the hospital outpatient PPS using a rural wage index).

Meanwhile, in 2012, CMS established an independent review process that allows the Advisory Panel on Hospital Outpatient Payment (HOP Panel) to advise CMS regarding stakeholder requests for changes in the required supervision level for a specific hospital outpatient therapeutic service. As the HOP Panel conducted its review, in CY 2012 CMS again delayed enforcement of the direct supervision policy for CAHs and small rural hospitals through CY 2013. CMS noted, however, that CY 2013 would be the final year the agency would extend the non-enforcement instruction. In December 2014, Congress passed and the President signed P.L. 113-198 which required CMS to continue through CY 2014 the instruction to not enforce Medicare's direct supervision requirement for outpatient therapeutic services furnished at critical access hospitals and small rural hospitals.

S. 1461, as modified

S. 1461, as modified, would extend, into calendar year 2015, the instruction to not enforce Medicare's direct supervision requirements for outpatient therapeutic services furnished at critical access hospitals and small rural hospitals.