

February 15, 2011

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CMS Rescinds Proposed Physician Signature Requirements for Clinical Laboratory Requisitions Involving Nursing Facility Residents

By **Brandy Schnautz Mann**

In the 2011 Medicare Physician Fee Schedule Final Rule, published in the November 29, 2010, edition of the *Federal Register*, the Centers for Medicare & Medicaid Services ("CMS") stated its intention to begin requiring physician signatures on all laboratory requisition forms reimbursable by Medicare beginning on January 1, 2011. Laboratory requisition forms are those documents provided to a clinical diagnostic laboratory that identify the test or tests to be performed, but they are not considered to be physician orders that heretofore required a physician's signature.

While many physicians and clinical laboratories grumbled about the new requirement, it was the nursing facility industry that most actively—and successfully—pleaded its case to CMS. According to the American Health Care Association ("AHCA"), CMS has agreed to withdraw the new signature requirements for laboratory requisitions in the case of nursing facility residents.

State licensure regulations and Medicare and Medicaid requirements for participation require nursing facilities to provide timely and accurate clinical laboratory testing to facility residents. Because nursing facilities generally do not have physicians on-site, most orders for clinical tests are requested by telephone from a resident's physician by a facility nurse who has detected a change in the resident's condition. Once the physician provides the verbal order for testing, the nurse prepares the requisition form and arranges for on-site sampling and prompt analysis by a clinical laboratory. She then reports the results to the physician and implements the physician's recommended treatment. The timeframe by which the physician must ultimately sign the verbal order is dictated by state law.

CMS' new laboratory requisition signature requirement would have slowed this process considerably in that nursing facility residents could no longer have undergone testing until their physicians had physically signed the laboratory requisition forms. According to the AHCA, this would have required nursing facilities to transfer many residents to the hospital by ambulance to undergo tests that had previously been done on-site at the facility, resulting in increased costs and inefficiencies. This, the AHCA asserted, would have directly contravened facilities' established duties to provide residents with timely testing and avoid the unnecessary transportation of compromised residents out of the facility.

In response to industry concerns, CMS agreed in a February 10 communication to the AHCA to rescind the signature requirement for clinical laboratory requisition forms for nursing facility residents. CMS has not, however, published revised rules memorializing this

change, so it is important that physicians, clinical labs, and nursing facilities keep abreast of any formal CMS announcements.

Please contact **Carla J. Cox** at 512.236.2040 or cjcox@jw.com or **Brandy Schnautz Mann** at 512.236.2310 or brandy@jw.com for more information.

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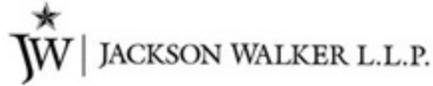
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