

Nursing Home Requirements of Participation (RoPs) or “Mega Rule”

The current federal and state regulatory system continues to challenge Wisconsin nursing homes, especially with the new federal Rule on Requirements of Participation (RoPs) or “mega rule” that went into effect on November 28, 2016. This new rule represents the most comprehensive revision of the nursing home regulations since 1991. The timeframe for implementing the rule is very short and the Centers for Medicaid & Medicare Services (CMS) is requiring implementation even before they have been able to issue formal guidance that will explain how they expect nursing homes to comply with the terms of the rule. In addition, CMS significantly underestimated the cost for each nursing home to comply with the rule, making it very difficult for nursing homes to meet the requirements of the new rule in the time-frame that is provided. Wisconsin nursing homes have found phase one of the rule to be counter-productive to providing quality care, as they have had to redirect staff and resources away patient care and quality of life activities to work on these compliance measures.

Action: We urge Congress to direct CMS officials to suspend the nursing home mega rule immediately and indefinitely in order to reevaluate what provisions are necessary.

Home and Community-Based Services Regulation

In an effort to promote community integration and to ensure Medicaid beneficiaries have full access to community living, the Centers for Medicaid & Medicare Services (CMS) established new criteria for home and community-based care settings (HCBS) in order to be eligible for federal Medicaid reimbursement. However, the rule and CMS’s definition of “community” have created obstacles for the elderly receiving services in adult day centers co-located in a nursing home or hospital, and for individuals with dementia living in secure settings who are receiving home and community-based services. It is presumed that there are existing assisted living settings that will become ineligible for Medicaid reimbursement, and this will force older adults to transition into higher cost or more restrictive settings which seems contrary to CMS’s intent.

Action: We urge Congress to direct CMS to suspend the Medicaid restriction on coverage of home and community-based services that has created obstacles for older adults living in campus-based settings. The regulation should be revised to define “community” to include campus-based independent and assisted living. The States, not CMS should define what settings are deemed to be community-based.