

## **ACT NOW: Oppose Medicare's Proposed Construction Ban**

May 10<sup>th</sup>, 2005

*The talking points in this statement were collected by Tim Size, Executive Director, Rural Wisconsin Health Cooperative, Sauk City, Wisconsin, 53583 <[timsiz@rwhc.com](mailto:timsiz@rwhc.com)>.*

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### **Rural community leaders across America Oppose Medicare's Proposed Construction Ban.**

**You, your colleagues, friends and neighbors need to:**

- 1. Ask your Representatives and Senators in Congress “to take all steps necessary to stop CMS from implementing any arbitrary deadline on Critical Access Hospital replacement or relocation.”**
- 2. Write to the Centers for Medicare and Medicaid Services (CMS) to (a) explain why their Proposed Rule is bad for rural health in your community and (b) demand that they delete “the arbitrary deadline on Critical Access Hospital replacement or relocation in the Inpatient Prospective Payment System (IPPS) final rule.”**

### **Background** (from the National Rural Health Association):

“In its recently released Inpatient Prospective Payment System (IPPS) proposed rule the Centers for Medicare and Medicaid Services (CMS) only provides continued Critical Access Hospital (CAH) status for necessary providers that are building replacement facilities at another location and can demonstrate their construction plans began before December 8, 2003. This arbitrary date restriction is a broad overreach of CMS authority. It puts in jeopardy many relocation projects that were started in the year and a half since the passage of the MMA. **It leaves no flexibility to relocate facilities in the future...**”

### **Talking Points**

Oppose the Medicare Construction Ban on Critical Access Hospitals because:

1. The Proposed Regulation transfers to the Centers for Medicare and Medicaid Services (CMS) control over the basic structure of local rural health care, a loss of local control never before seen, and if allowed to stand, a precedent that threatens all hospitals and all

communities.

2. It was clearly not the intent of Congress in the Medicare Modernization Act that a Critical Access Hospital (CAH) designated as a Necessary Provider be perpetually prohibited from replacing or relocating their facility, facilities that are often 40 to 50 years old.
3. Many rural hospitals are located on a small campus in the middle of residential neighborhoods with relocation being the most appropriate, and sometimes only, alternative.
4. Ironically, the CMS proposal to ban a local community's ability to rebuild on an adjacent or nearby location will cost Medicare over time, more, not less—the higher labor costs of operating in a retrofitted building more than offset the slightly higher cost of rebuilding.
5. A ban on major construction projects developed after December 8, 2003 is an over reaction against a potential problem that can be appropriately managed by the portion of CMS's proposed rule that would require assurance that, after the construction, "the CAH will be servicing the same community and will be operating essentially the same services with essentially the same staff."
6. The CMS ban is based on the misguided belief, not tested in law and a break with CMS's past policy, that the relocation of a CAH can be treated differently than for any other hospital. There is no basis in law that the relocation within a community of a CAH with Necessary Provider status constitutes a cessation of business and loss of its provider agreement and number.
7. A CAH's Necessary Provider designation is associated with its current Medicare provider agreement which should remain intact unless the CAH fundamental changes its business (e.g., ceases its current operations) or is terminated by Medicare. It is a longstanding policy that the provider agreement describes the legal entity and services provided—not the physical structure or location.

### **Write to Congress**

**Ask your Representative and Senators "to take all steps necessary to stop CMS from implementing any deadline on Critical Access Hospital replacement or relocation."**

1. Call or write using Congressional office phone numbers and addresses available from <http://mygov.governmentguide.com/>.
2. Or use the National Rural Health Association's automated letter writing system. Go to <http://nrharural.org/> ; click on the "Advocacy/Regulatory" button and type in your zipcode under "Write to Congress;" follow the directions under the Action Alert for "Critical Access Hospitals in Jeopardy."

### **Comment on the Proposed Rule**

**Write to the Centers for Medicare and Medicaid Services (CMS) to (a) explain why their Proposed Rule is bad for rural health in your community and (b) demand that they delete “the arbitrary deadline on Critical Access Hospital replacement or relocation in the Inpatient Prospective Payment System (IPPS) final rule.”**

Your comments must be received no later than June 24, 2005 as follows:

**Electronic Comments** to <<http://www.cms.hhs.gov/regulations/ecomments>> with reference to CMS-1500-P (Attachments should be in Microsoft Word).

**Mail** written comments (one original and two copies)

Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
Attention: CMS-1500-P,  
P.O. Box 8011,  
Baltimore, MD 21244-1850.

**Courier** written comments (one original and two copies)

Centers for Medicare & Medicaid Services  
Department of Health and Human Services,  
Attention: CMS-1500-P,  
Room 445-G, Hubert H. Humphrey Building,  
200 Independence Avenue, S.W.  
Washington, DC 20201