



CMS Delays Publication of ERSD Conditions of Participation Rules

February 5, 2008

The Centers for Medicare and Medicaid Services (CMS) announced yesterday¹ that publication of final regulations defining new requirements for Medicare coverage for end stage renal disease (ESRD) facilities intended to reflect advances in dialysis and end stage renal disease treatment and care standards will be delayed until February 4, 2009. Prior to its announcement, CMS had been expected to issue final comprehensive regulations redefining and updating the conditions for ESRD participation this week.

In its announcement of the delay, CMS indicated that the delay is necessary as a result of the large volume of comments received by CMS in response to proposed ERSD conditions of participation that CMS previously rules published on February 4, 2005.²

If you have questions about ERSD or other Medicare conditions of participation, would like a copy of the proposed regulations issued in 2005, or need assistance with our health care matters, please contact Ms. Stamer or Ms. Kocher.

About Cynthia Marcotte Stamer & Heidi Kocher

Cynthia Marcotte Stamer, P.C., a member of the law firm of Glast, Phillips & Murray, P.C., serves as outside legal operations and special counsel to a broad range of health industry clients. The firm helps hospitals, physicians, clinics, DME, home health, skilled nursing facilities, and other health care providers, health technology, and other health industry clients use the law and process to manage legal risks, manage people and performance, improve operational effectiveness and profitability, and respond to regulatory and other legal challenges and opportunities. Clients include public and private health care providers, individual providers and provider groups, management services organizations, preferred provider organizations, and their technology, administrative services, and other health industry service providers.

The firm's President, Cynthia Marcotte Stamer, P.C. has extensive experience advising, and representing health care providers and other health industry clients health care operations, reimbursement, regulatory and public policy, risk management, human resources, credentialing, technology, privacy, and other concerns. Her clients include hospitals, physicians, clinics, IPAs, PHOs, skilled nursing facilities, assisted living and home health, rehabilitation, imaging and other diagnostic services providers, DME, physician practice management companies and other management services organizations, health care technology, and other health industry clients. Recognized in the International Who's Who of Professionals and bearing the Martindale Hubble AV-Rating, Ms. Stamer is a highly regarded legal advisor and consultant, author and speaker, who regularly conducts management and other training on health care reimbursement and other health industry operational, regulatory, and public policy matters.

Chair of the American Bar Association (ABA) Health Law Section Managed Care & Insurance Interest Group and known for her practical, direct problem-solving approach, Ms. Stamer also applies her extensive industry experience in numerous professional and industry leadership roles. In addition to her ABA Health Law Section involvement, Ms. Stamer serves on the editorial advisory boards of and is a contributing author for the Bureau of National Affairs and other publications, served as the Compliance Committee Chair and a member of the Board of the National Kidney Foundation of North Texas Board of Directors, serves on the continuing education and conference planning committees of the ABA Joint Committee On Employee Benefits (JCEB), the HFMA Lone Star Chapter, TAHFA, the IRS TEGE Advisory Council, and numerous other health industry groups. She also is the past-president of the Alliance for Health Care Excellence, and founder of its Health Care Heroes and Patient Empowerment Programs. She also is active in numerous other industry organizations including the American Health Lawyers Association, the Medical Group Management Association, the Alliance for Healthcare Excellence, the Dallas Bar Association Health Law Section,

Ms. Stamer is a widely published author and highly sought-after speaker nationally and internationally sought out for her strategic knowledge and insights on operational and technical health care risk management and operational concerns. A columnist for MD News and recurring author for various other health industry publications, Ms. Stamer's insights have been quoted by the Wall Street Journal, the Bureau of National Affairs (BNA), HIPAA Comply, Private Payer News, Modern Health Care, Managed Healthcare Executive, Health Leaders, Caring for The Elderly Magazine, For The Record, the Dallas Morning News, Spencer Publications, the Dallas Business Journal, the Houston Business Journal, and a various other national and local publications. Ms Stamer is the author of 100s of publications on health industry matters including numerous highly regarded

¹ See 73 Fed. Reg. 6451 (February 4, 2008).

² See 70 Fed. Reg. 6184 (February 4, 2005).

works published by the American Bar Association, Aspen Publishers, BNA, the American Health Lawyers Association, the Medical Group Management Association, Government Institutes, Inc., Decision Health and others.

Heidi Kocher has over 10 years experience in healthcare law, having represented many kinds of healthcare providers, from small DME companies to large national health care organizations. Prior to returning to private practice, Ms. Kocher was in-house at one of the largest national hospital companies. Her wide-ranging experience includes advising corporate and individual clients on the myriad federal and state fraud and abuse laws, such as Stark, the Anti-kickback statute, and False Claims Act, structuring mergers, acquisitions, joint ventures, employment agreements, and other deals, developing compliance programs and plans, interfacing with fiscal intermediaries, carriers, and other payers, resolving reimbursement issues, conducting investigations, assisting with preparing for and responding to JCAHO surveys, obtaining advisory opinions from the OIG, and representing providers in relation to federal and state agencies. She has worked with hospitals, physicians, mid-level practitioners, pharmacies, DME companies, LTACs, SNFs, home health and hospice agencies, inpatient rehab facilities, clinical laboratories, as well as allied health practitioners. She is active in the Health Care Compliance Association, and has written numerous articles and provided training on various healthcare law topics.

For more information about Ms. Stamer and Ms. Kocher, a listing of selected publications and other health industry links, information about workshops and other training and other health industry information and resources or other details about Cynthia Marcotte Stamer, P.C. and Glast, Phillips & Murray, P.C., see CynthiaStamer.com or contact Ms. Stamer or Ms. Kocher.

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