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APRIL 2, 2020 | PUBLICATION

Client Alert: CMS Issues Sweeping Array of Waivers in Response to COVID-19 Pandemic

INDUSTRY SECTOR

Health Care

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On March 30, 2020, the Centers for Medicare and Medicaid Services ("CMS") issued a sweeping compilation of temporary regulatory waivers and new rules aimed at providing the United States health care system with necessary flexibility to address the COVID-19 pandemic. Having recently approved hundreds of waiver requests from health care providers, state governments, and hospital associations in numerous states due to the pandemic, the new blanket waivers notably apply immediately to all states and applicable providers and do not require filing an application. The waivers have a retroactive effective date of March 1, 2020 and apply through the end of the emergency declaration. The array of temporary changes include the waiver of certain requirements the Medicare conditions of participation to allow hospitals to establish and operate temporary expansion locations at other locations, such as Ambulatory Surgery Centers (many of which have capacity due to cancellation of certain elective surgeries), hotels, and other community facilities; a waiver permitting offsite screening for COVID-19 for certain hospitals, which is typically not permitted under EMTALA; and waiver of requirements regarding verbal orders to allow more efficient treatment of patients in surge situations. Other waivers address relaxation of existing requirements for utilization review, long-term care and skilled nursing facilities, home health agencies, hospice, end-stage renal dialysis facilities, provider enrollment, and Medicaid & CHIP flexibility. A complete list and additional details regarding the changes is available from CMS at https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf, and provider specific fact sheets can be found at https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers.

For the most up-to-date legal and legislative information related to the coronavirus pandemic, please visit our Shumaker COVID-19 Client Resource Center at shumaker.com. We have also established a 24/7 Legal & Legislative Helpline at 1.800.427.1493 monitored by Shumaker lawyers around the clock.

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