

CMS Announces Flexibility in Calculating CAH 96-hour Average Length of Stay

On June 9, the Centers for Medicare & Medicaid Services (CMS) released a memo to state survey agency directors announcing how it intends to enforce the statutory regulation that requires critical access hospitals (CAHs) to maintain an average length of stay (ALOS) of 96 hours.

As covered in a [recent edition of *The Valued Voice*](#), WHA has been urging Congress to extend the regulatory flexibility hospitals had during the public health emergency that temporarily waived this statutory requirement. WHA has stressed the importance of continued flexibility due to sustained hospital capacity challenges that have persisted, largely due to the severe lack of post-acute care beds to take hospital patients that have completed their acute-care hospital stay. WHA has also heard concerns that home health agencies cannot find adequate staff to accept post-acute care patients as easily as they were able to prior to the COVID-19 pandemic.

WHA has been working with the American Hospital Association and National Rural Health Association to elevate this issue for Congress and expects federal legislation to soon be introduced that would provide hospitals with a temporary extension of this flexibility. WHA is also supporting legislation to eliminate the CMS policy requiring physicians to certify that a patient is expected to stay in a critical access hospital no longer than 96 hours as a condition of payment prior to admitting the patient into the CAH.

In the meantime, CMS has announced in this memo that it will not include any of the days from the waiver period (March 1, 2020 to May 11, 2023) in the cost reports it analyzes for a CAH's ALOS. Therefore, the evaluation of a hospital's ALOS will resume with the CAH's first full cost reporting period that begins after May 11, 2023. CMS has said this will be a one-time change to the CAH ALOS calculation.

WHA is continuing to advocate for an extension of both the statutory flexibility for the 96-hour ALOS and the CMS physician certification condition of payment policy to support hospitals' continued need for regulatory flexibility. Contact WHA's VP Federal and State Relations [Jon Hoelter](#) with questions.

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