



On July 16, 2019, the Centers for Medicare and Medicaid Services (CMS) announced a proposed rule to reform the Requirements of Participation (RoPs). CMS-3347-P Requirements for Long-Term Care Facilities: Regulatory Provisions to Promote Efficiency and Transparency has left providers with many questions, which we address below:

Q: What is the proposed rule?

A: Aimed at reducing regulatory burden by eliminating or reforming obsolete or burdensome regulations, CMS has proposed a rule that would make changes to 12 sections of the Requirements of Participation (RoPs) for long-term care facilities.

Q: When will this rule be finalized?

A: The public comment period closes in September. At that time, CMS will review all comments and determine how to proceed. If significant changes will be made to the proposed rule, CMS may issue a second comment period. If there is no additional comment period, the process will continue toward finalization. This process could take months.

Q: How does this proposed rule impact the upcoming implementation of RoPs phase 3?

A: RoPs 3 will be implemented in November 2019. Generally, the proposed rule does not change that. However, for some parts of RoPs 3 specifically addressed in the proposed rule, implementation would be one year from the date that the rule is finalized.

Q: When will the RoPs Phase 3 interpretative guidance be issued?

A: CMS is still aiming to release guidance on the aspects of RoPs 3 that are not impacted by this proposed rule sometime this summer. They have not provided an exact date.

Q: Will there be guidance on the elements of RoPs 3 contained in the proposed rule?

A: When CMS releases the RoPs 3 guidance, they will indicate those sections impacted by the proposed rule, and guidance will not be provided for those requirements at that time. After the rule is finalized, CMS plans to release guidance on the additional elements impacted by the rule.

Q: Aside from phase 3, what other aspects of the RoPs does this rule impact?

A: This rule also proposes changes to residents' rights to be informed of physician, grievances, transfer and discharge notices, retention of daily staffing data, PRN orders for psychotropic medications, facility assessment requirements, and life safety code. A summary of changes is available on the LeadingAge website.

Q: Does this rule address anything beyond RoPs?

A: This rule also proposes changes to the informal dispute resolution (IDR) and independent informal dispute resolution (independent IDR) processes and the waiver of hearing for a reduction of civil money penalty (CMP) amounts.