

## CMS Releases New Survey and Certification Guidance

### SOM Appendix G Expanded from 24 to 90 Pages but Adds Burden



On January 26<sup>th</sup>, The Centers for Medicare and Medicaid (CMS) released a new version of the State Operations Manual Appendix G – Guidance for Surveyor: Rural Health Clinics. This [updated version](#) has significantly more detail than its predecessor as evidenced by the increase in page count from 24 to 90. I would recommend that all RHCs with upcoming surveys review the document in its entirety.

While this new version does include a lot of helpful and benign clarifying language, we (NARHC) were disappointed to see that CMS did not take this opportunity to reduce regulatory burdens on RHCs.

In fact, the guidance surrounding 491.9(c)(3), which is the section on emergency drugs and biologicals, significantly increases unnecessary certification burden. The old guidance focused almost exclusively on the laboratory services required, with only a brief mention that “the regulations specify the services that must be made available by the clinic, including...emergency treatments.” However, the new guidance contains a significant amount of additional language on “the types and quantity of drugs and biologicals typically used by first responders...”

The guidance interprets the two words “such as” to mean that RHCs must maintain some drug or biological in each of the categories of drugs listed in 491.9(c)(3). NARHC believes that “such as” is more properly interpreted as “for example” and the list of drugs in the regulation is merely meant to provide illustrative examples of the requirement.

We find the language surrounding snake antidote particularly problematic given the cost of antidote vials coupled with the low volume of patients presenting in RHCs with severe poisonous snake bites. Vials can cost thousands of dollars, and in the vast majority of instances will expire before they are ever used. The guidance also does not take into account the fact that many RHCs are located adjacent to emergency departments that would more appropriately handle all the snake bite emergencies in that area.

Another missed opportunity from CMS has to do with an RHC’s ability to relocate if they are grandfathered-in.

NARHC believes it is a good thing that RHCs located in areas that subsequently lose their rural or shortage are grandfathered-in and do not lose their RHC status. However, we believe it is unfair that these RHCs are not able to relocate because the grandfathering provision will not extend to the new location.

This issue has been problematic for several RHCs who have tried to move into a better building nearby but are stuck in their current location because they want to retain their RHC status. Additionally, we have heard of instances whereby landlords have taken advantage of this knowledge and raised the rent on the RHC knowing that they cannot change addresses. CMS does not even offer an exception to this rule in emergency scenarios such as a flood or fire. Instead of using the new guidance as an opportunity to alleviate these issues for grandfathered RHCs, CMS doubled down on their current policy, writing:

*If an existing RHC relocates, the grandfathering provision does not apply and the RHC must meet both the rural and shortage area location requirements at the new location.*

NARHC is working with both the Office of Management and Budget (OMB) and CMS to amend this new guidance in a way that reduces unnecessary and costly burden. Additionally, we continue to encourage the RHC community to give us feedback on the new Appendix G besides the emergency drugs and biologicals section so we can properly convey concerns to federal stakeholders. Please reach out to me if you have any feedback.

**Nathan Baugh**  
Director of Government Affairs, NARHC  
[Baughn@capitolassociates.com](mailto:Baughn@capitolassociates.com)