

stringent as the Medicare conditions. Our regulations concerning the reapproval of accrediting organizations are set forth at §§ 488.4 and 488.8(d)(3). The regulations at § 488.8(d)(3) require accrediting organizations to reapply for continued deeming authority every six years or sooner as determined by us.

The Joint Commission's term of approval as a recognized accreditation program for HHAs expires March 31, 2008.

II. Approval of Deeming Organizations

Section 1865(b)(2) of the Act and our regulations at § 488.8(a) require that our findings concerning review and reapproval of a national accrediting organization's requirements consider, among other factors, the applying accrediting organization's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide us with the necessary data for validation.

Section 1865(b)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of The Joint Commission's request for continued deeming authority for HHAs. This notice also solicits public comment on whether The Joint Commission's requirements meet or exceed the Medicare conditions for participation for HHAs.

III. Evaluation of Deeming Authority Request

The Joint Commission submitted all the necessary materials to enable us to make a determination concerning its request for reapproval as a deeming organization for HHAs. This application was determined to be complete on September 3, 2007. Under section 1865(b)(2) of the Act and our regulations at § 488.8 (Federal review of accrediting organizations), our review and evaluation of The Joint Commission will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of The Joint Commission standards for an HHA as

compared with CMS' HHA conditions of participation.

- The Joint Commission's survey process to determine the following:
 - The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.
 - The comparability of The Joint Commission's processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
 - The Joint Commission's processes and procedures for monitoring HHAs found out of compliance with The Joint Commission program requirements. These monitoring procedures are used only when The Joint Commission identifies noncompliance. If noncompliance is identified through validation reviews, the State survey agency monitors corrections as specified at § 488.7(d).
 - The Joint Commission's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
 - The Joint Commission's capacity to provide us with electronic data in ASCII comparable code, and reports necessary for effective validation and assessment of the organization's survey process.
 - The adequacy of The Joint Commission's staff and other resources, and its financial viability.
 - The Joint Commission's capacity to adequately fund required surveys.
 - The Joint Commission's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.
 - The Joint Commission's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

IV. Response to Public Comments and Notice Upon Completion of Evaluation

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal**

Register announcing the result of our evaluation.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

VI. Regulatory Impact Statement

In accordance with the provisions of Executive Order 12866, the Office of Management and Budget did not review this proposed notice.

In accordance with Executive Order 13132, we have determined that this proposed notice would not have a significant effect on the rights of States, local or tribal governments.

Authority: Section 1865 of the Social Security Act (42 U.S.C. 1395bb). (Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 5, 2007.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3181–FN]

Medicare Program: Approval of Application by the American Diabetes Association (ADA) for Continued Recognition as a National Accreditation Organization That Accredits Entities To Furnish Outpatient Diabetes Self-Management Training

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This final notice announces the approval of the American Diabetes Association (ADA) as a national accreditation organization for the purpose of determining that an entity meets the necessary quality standards to furnish outpatient diabetes self-management training services under Part B of the Medicare program.

Therefore, diabetes self-management training (DSMT) programs accredited by the ADA will receive deemed status under the Medicare program.

DATES: *Effective Date:* This accreditation is effective on October 27, 2007.

FOR FURTHER INFORMATION CONTACT: Joan A. Brooks, (410) 786-5526.

SUPPLEMENTARY INFORMATION:

I. Background

To participate in the Medicare program, diabetes self-management training (DSMT) programs must meet conditions for coverage specified in our regulations at 42 CFR part 410, subpart H. One requirement is that entities must satisfy required quality standards. Currently, one way of satisfying the quality standards under § 410.145 is to be approved by an approved accrediting body. The regulations pertaining to the application procedures for national accreditation organizations for DSMT are at § 410.142. After we approve and recognize the accreditation organization, it may accredit an entity to meet one of the sets of quality standards described in § 410.144.

II. Review Process

In evaluating an application from an accrediting organization, we consider the following factors under section 1865(b)(2) of the Social Security Act (the Act):

- Accreditation requirements.
- Survey procedures.
- Ability to provide adequate resources for conducting required surveys and to supply information for use in enforcement activities.
- Monitoring procedures.
- Ability to provide us with the necessary data for validation.

We are required by § 410.142(d) to publish a proposed notice in the **Federal Register** after the receipt of a written request for approval from a national accreditation organization. After review of the national accreditation organization's application, the regulations require that we publish a notice of our approval or disapproval after we receive a complete package of the information and the organization's deeming application.

III. Analysis of and Responses to Public Comments and Provisions of the Final Notice

We received a complete application from the American Diabetes Association (ADA) on March 3, 2007. On May 25, 2007, we published a proposed notice in the **Federal Register**, (72 FR 29325) announcing the application of the ADA for continued approval as an

accreditation organization for diabetes self-management training programs.

Comment: We received one comment on our proposed notice, which was supportive of the ADA's application. Although the comment supported ADA, the commenter expressed concern that some of ADA's accrediting requirements do not reflect the current state of health care practice for many DSMT programs. Specifically, the commenter expressed concern about the requirements pertaining to data collection, documentation, location requirements, and fees. The commenter stated that accreditation requirements can be burdensome for small DSMT practices that may operate outside of a large hospital-based setting. The commenter further specified that some large hospitals' DSMT programs have closed in recent years, due to a variety of factors that include the burdensome administrative requirements of accreditation combined with overall low reimbursement for DSMT services.

Response: Although reimbursement issues are not within the scope of this final notice, we recognize these are issues of concern. Some reimbursement issues associated with DSMT are—

- Entities' failure to meet the required number of participants for group training;
- Entities' failure to meet the requirement for both a registered dietitian (RD) and a registered nurse (RN) on the training team; and
- Entities' failure to bill correctly.

Recent revisions made to the National Standards for Diabetes Self-Management Education Programs (NSDSMEP) include: 1) a reduction in the number of participants required for group training (from 15 to 10); and 2) a change in the instructional requirements that DSMT programs must meet. Previously, a DSMT entity was required to have both a RD and a RN conduct training. The recent revisions to the NSDSMEP changed this requirement. An entity may now have either a RD or a RN conduct training. This revision should help to alleviate some of the administrative burdens faced by entities when administering the DSMT benefit. Additionally, we have revised Chapter 18 of the CMS Claims Processing Manual, and Chapter 15 of the CMS Benefits Policy Manual to clarify the instructions for filing specific claims. Our findings indicate that the ADA continues to use one of the sets of quality standards described in § 410.144. It also continues to meet the CMS criteria as "a nonprofit organization with demonstrated experience in representing the interests of individuals with diabetes" to accredit

entities to furnish training as specified in § 410.142(a).

The ADA began its Education Recognition Program (ERP) in 1986. At that time they formally recognized diabetes self-management education programs that meet the NSDSMEP. These standards, created by the National Diabetes Advisory Board (NDAB), were designed to promote quality diabetes self-management education nationwide for every person with diabetes.

A Task Force consisting of the ADA, the American Association of Diabetes Educators, the American Dietetic Association, the Veteran's Health Service, the National Certification Board for Diabetes Educators, the Centers for Disease Control and Prevention, the Department of Veterans Affairs, the Diabetes Research and Training Centers, the Indian Health Service, and the National Certification Board for Diabetes Educators was convened on March 31, 2006 and again on September 19, 2006 as part of the update process. The revised standards were approved on March 25, 2007 and was published in the June 2007 issue of Diabetes Care, Volume 30, Number 6. The task force reviewed the standards for their appropriateness, relevancy, scientific basis, specificity, and ability to be implemented in multiple settings. The current NSDSMEP standards (7th Edition) were effectuated in June 2007 and reflect the changing approaches in diabetes training and education.

We reviewed ADA's materials and the findings presented by the Iowa Foundation for Medicare Care (IFMC, Contract #GS-35F-5831 H/HHDM 500-2006-0015IG), which was under contract with CMS to validate ADA's accreditation policies. IFMC surveyed a sample of ADA's accredited facilities. Based on these reviews, we have determined that the ADA's deeming authority has been exercised in compliance with § 410.142. Therefore, ADA's continued recognition as a national accrediting organization is approved and is effective for 6 years, beginning October 27, 2007.

Authority: Sections 1865 of the Social Security Act (42 U.S.C. 1395bb). (Catalog of Federal Domestic Program No. 93.773, Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 6, 2007.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

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