Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3110–FN]

Medicare & Medicaid Programs: Application From the Accreditation Commission for Health Care for Continued CMS-Approval of Its Hospice Accreditation Program

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

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve the Accreditation Commission for Health Care (ACHC) for continued recognition as a national accrediting organization for hospices that wish to participate in the Medicare or Medicaid programs.

DATES: *Effective:* This final notice is effective November 27, 2013 through November 27, 2019.

FOR FURTHER INFORMATION CONTACT: Valarie Lazerowich, (410) 786–4750. Cindy Melanson, (410) 786–0310. Patricia Chmielewski, (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospice provided certain requirements are met. Section 1861(dd) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a hospice. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 418 specify the conditions that a hospice must meet to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for hospices.

Generally, to enter into an agreement, a hospice must first be certified by a state survey agency as complying with the conditions or requirements set forth in part 418. Thereafter, the hospice is subject to regular surveys by a state survey agency to determine whether it continues to meet these requirements. However, there is an alternative to surveys by state agencies. Certification by a nationally recognized accreditation program can substitute for ongoing state review.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, CMS will deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary of the Department of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to have met the Medicare conditions. A national accrediting organization applying for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions.

Our regulations concerning the approval 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 approval of its accreditation program every 6 years or sooner as determined by CMS.

The ACHC's current term of approval for their hospice accreditation program expires November 27, 2013.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

On May 3, 2013, we published a proposed notice in the **Federal Register** (78 FR 26036) announcing Accreditation Commission for Health Care's request for approval of its hospice accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.4 and § 488.8, we conducted a review of ACHC's application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An onsite administrative review of ACHC's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- The comparison of ACHC's accreditation requirements to our current Medicare hospice conditions of participation.
- A documentation review of ACHC's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and ACHC's ability to provide continuing survey or training.

++ Comparability of ACHC's processes to those of state survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ ACHC's procedures for monitoring hospices out of compliance with ACHC's program requirements. The monitoring procedures are used only when ACHC identifies noncompliance. If noncompliance is identified through validation reviews, the State survey agency monitors corrections as specified at § 488.7(d).

++ ACHC's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ ACHC's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ The adequacy of staff and other resources.

++ ACHC's ability to provide adequate funding for performing required surveys.

++ ACHC's policies with respect to whether surveys are announced or unannounced.

++ ACHC's agreement to provide CMS 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.

In accordance with section 1865(a)(3)(A) of the Act, the May 3, 2013 proposed notice also solicited public comments regarding whether ACHC's requirements met or exceeded the Medicare conditions of participation for hospices. We received no comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between ACHC's Standards and Requirements for Accreditation and Medicare's Conditions and Survey Requirements

We compared ACHC's hospice requirements and survey process with the Medicare conditions of participation and survey process as outlined in the State Operations Manual (SOM). Our review and evaluation of ACHC's hospice application, which were conducted as described in section III of this final notice, yielded the following:

- To meet the requirement at § 418.3(2), ACHC amended its crosswalk and standards to accurately reflect the current regulatory language that the attending physician is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.
- To meet the requirement at § 418.24(c)(3), ACHC amended its preamble to accurately reflect the current regulatory language that an election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual is not discharged from the hospice under the provisions in § 418.26.
- To meet the requirement at § 418.70, ACHC revised its standard to accurately address the care/services provided directly and those provided under arrangement.
- To meet the requirement at § 418.76(c), ACHC revised its standards to address the requirement that hospice aide services can be provided by an individual only after the successful completion of a competency evaluation program.
- To meet the requirement at § 418.78, ACHC revised its standard to reflect that the hospice must use volunteers in defined roles.
- To meet the requirement at § 418.104(d), ACHC revised its standard to reflect that if the hospice discontinues operation, hospice policies must provide for retention and storage of clinical records.
- To meet the requirement at § 418.106(e)(2)(i)(A), ACHC revised its standard to reflect that the hospice will provide a copy of the hospice's written policies and procedures on the management and disposal of controlled drugs to the patient representative.
- To meet the requirement at § 418.106(e)(2)(i)(B), ACHC revised its standard to reflect the discussion of the hospice's policies and procedures managing the safe use and disposal of controlled drugs to the patient representative.
- To meet the requirement at § 418.108(b)(1)(ii), ACHC revised its standard to allow for pain control, symptom management, and respite purposes in a Medicare or Medicaid-certified nursing facility, in addition to a Medicare or Medicaid-certified hospice or hospital that also meets the standards specified in § 418.110(e).
- To meet the requirement at § 418.110(n)(2)(i), ACHC revised its standard to address techniques to identify staff behaviors, events, and environmental factors that may trigger circumstances that require the use of a restraint or seclusion.
- To meet the requirement at § 418.112(c), ACHC provided a clear definition of the management of crisis situations and temporary emergencies.
- To meet the requirement at § 418.202(g), ACHC amended its preamble to accurately reflect the requirement that homemaker services may include assistance in maintenance of a safe and healthy environment and services to enable the individual to carry out the treatment plan.
- To meet the requirements of Appendix M of the SOM, ACHC instituted processes and audits to ensure that the Medicare Enrollment Application Form CMS–855A is verified by the assigned Medicare Administrative Contractor (MAC) prior to conducting an initial survey.

B. Term of Approval

Based on our review and observations described in section III of this final notice, we have determined that ACHC's hospice accreditation program requirements meet or exceed our requirements. Therefore, we approve ACHC as a national accreditation organization for hospices that request participation in the Medicare program, effective November 27, 2013 through November 27, 2019.

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.

(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 29, 2013.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: DRA TANF Final Rule.

OMB No.: 0970–0338.

Description: When the Deficit Reduction Act of 2005 (DRA) reauthorized the Temporary Assistance for Needy Families (TANF) program, it imposed a new data requirement that States prepare and submit data verification procedures and replaced other data requirements with new versions including: the TANF Data Report, the SSP–MOE Data Report, the Caseload Reduction Documentation Process, and the Reasonable Cause/Corrective Compliance Documentation Process. The Continuing Appropriations Act, 2014 (Pub. L. 113–46) provides federal funds to operate Temporary Assistance for Needy Families (TANF) programs in the states, DC, Guam, Puerto Rico, the U.S. Virgin Islands, and for approved federally recognized tribes and Alaskan Native Villages through January 15, 2014. We are proposing to continue these information collections without change.

Respondents: The 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.