November 19, 2018

VIA ELECTRONIC SUBMISSION

Seema Verma, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-3346-P
P.O. Box 8010
Baltimore, MD 21244-1810

Re: CMS-3346-P

Dear Administrator Verma:

The Medicare Rights Center (Medicare Rights) appreciates the opportunity to comment on the **Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS-3346-P)**. Medicare Rights is a national, nonprofit organization that works to ensure access to affordable health care for older adults and people with disabilities through counseling and advocacy, educational programs, and public policy initiatives. Medicare Rights provides services and resources to three million people with Medicare, family caregivers, and professionals each year.

CMS proposes to reform Medicare regulations that it identifies as unnecessary, obsolete, or excessively burdensome on health care providers and suppliers. Medicare Rights has significant concerns that this set of proposed rules around emergency preparedness would change necessary, relevant, and reasonable regulations that protect the lives and well-being of people with Medicare.

The current emergency preparedness rules were informed by horrific tragedies that revealed a lack of facility readiness for disaster. As history demonstrates, when a facility has insufficient plans to handle emergencies, residents' lives can be at risk. The proposed changes to lessen the oversight and requirements for emergency preparedness would be an unnecessary step backwards.

Under this proposal, facilities would only be required to conduct biennial reviews of emergency plans, policies, and procedures rather than the currently required annual review. Doubling the

time between reviews puts residents at greater risk of harm as plans may quickly become outdated and therefore fail to capture current threats or new industry strategies. In addition, emergency response strategies may become "out of sight, out of mind" for administrators who are required to engage with them only once every two years. Such administrators may have a vague understanding of what is included, but only with more frequent review can they ensure the plans are up-to-date and consistently evaluated for sufficiency. Because of this, we oppose the proposed change to biennial review of facility plans, policies, and procedures.

Similarly, CMS proposes that the emergency communication plan be reviewed biennially rather than annually. The communication plan is a vital component of a facility's emergency program, allowing the facility to coordinate effectively and respond dynamically in an emergency. Having an up-to-date communication strategy is extraordinarily important as this information changes frequently. Even an annual review is unlikely to keep all inaccurate and dated information out of the plan.

In the same vein, CMS proposes that the training and testing program for facility staff be reviewed biennially rather than annually. As with the other plans, policies, and procedures, the training and testing program should be reviewed and updated frequently to ensure any changes are captured in the program.

CMS also proposes allowing facilities to conduct emergency preparedness training biennially rather than annually. We strongly oppose this change as it is too infrequent to adequately prepare staff to respond quickly and competently in an emergency. Few staff members would remember training from more than a year before, especially when the training must include detailed information for a variety of potential circumstances. Trainings must be provided frequently and reinforced subsequently in order to be effective.

Additionally, CMS proposes eliminating the documentation of efforts to contact local, tribal, regional, state and federal emergency preparedness officials and the facility's participation in collaborative and cooperative planning efforts. While the contact and cooperation would continue to be required, without documentation these activities may slip into the background for administrators and even fall by the wayside. Documentation allows rigorous oversight and accountability.

Each of these proposals reduces the priority of and engagement with vital emergency preparedness tools. As history has amply demonstrated, emergency preparedness is vital for resident safety and cannot be relegated to an unimportant status. Instead, we should encourage additional engagement with and assessment of emergency preparedness standards to ensure the facility is as well prepared as possible to handle unexpected circumstances, including natural disasters, violence, outbreaks, or technological failures.

We look forward to working together to advance policies that consider and balance the needs of all stakeholders while promoting high-value and high-quality care. For additional information, please contact Lindsey Copeland, Federal Policy Director at LCopeland@medicarerights.org or 202-637-0961 and Julie Carter, Senior Federal Policy Associate at JCarter@medicarerights.org or 202-637-0962.

Sincerely,

Joe Baker
President
Medicare Rights Center