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DQA Memo 20-005

To: All Ambulatory Surgical Centers

From: Ann Hansen, Director
Bureau of Health Services

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Via: Otis Woods, Administrator
Division of Quality Assurance

**Guidance for Ambulatory Surgical Centers Temporarily Enrolling as a Hospital
During the COVID-19 Public Health Emergency**

Purpose

Recently the Centers of Medicare and Medicaid Services (CMS) issued QSO-20-24-ASCs allowing Ambulatory Surgical Centers (ASC) to temporarily enroll as hospitals and provide inpatient and outpatient hospital services to help increase hospital capacity to care for patients. To the extent that an ASC would be operating as a hospital as defined in Wis. Stat., ch. 50.33 (2), the ASC will need to become temporarily licensed as a hospital in Wisconsin. This memorandum establishes a process for ASCs to become licensed as a hospital during the COVID -19 public health emergency.

Background

During the COVID-19 public health emergency CMS is allowing all Medicare-enrolled ASCs to enroll as hospitals and provide inpatient and outpatient hospital services to care for patients. Due to the infrastructure that exists in most ASCs, these facilities have been identified by CMS as a critical resource to assist in expanding capacity hospital services for patients requiring a higher level of care.

CMS is providing flexibility to hospitals during the COVID-19 public health emergency period to ensure they have the ability to expand capacity and to treat patients, including waivers that permit implementation of these flexibilities. Please refer to CMS Memorandum QSO-20-24-ASC for guidance regarding CMS waivers to allow ASCs to temporarily enroll as hospitals and the steps for processing attestations and certification kits for existing Medicare certified ASCs that choose to temporarily enroll as a hospital during the COVID-19 public health emergency. ASC wishing to enroll as a hospital should notify the Medicare Administrative Contractor (MAC) by calling the MAC's provider enrollment

hotline and following the instructions noted in the 2019-Novel Coronavirus (COVID-19) Medicare Provider Enrollment Relief Frequently Asked Questions (FAQs) document.

Guidance

ASCs enrolling temporarily as a hospital in Wisconsin will need to become licensed at a hospital as defined in Wis. Stat., ch. 50.33 (2). In Wisconsin all inpatient hospitals are required to maintain a Certificate of Approval (CoA). The Division of Quality Assurance (DQA) recently issued guidance to hospitals that intend to expand locations to provide acute care inpatient services during the COVID-19 public health emergency. Please refer to DQA Hospital Memo DQA-001, State License Application for Temporary Expansion Locations during Public Health Emergency related to COVID-19. The memo provides guidance on the licensure application requirements and Physical Environment/Life Safety Code approval requirements based on the expansion plan requested.

If a temporarily licensed hospital decides to revert back to an ASC prior to the end of the public health emergency period, they must notify the DQA in writing. Once there is no longer a need for the ASC to be a hospital, the ASC should come back into compliance with all applicable ASC federal participation requirements, including the Conditions for Coverage.

If the ASC wishes to participate as a hospital after the public health emergency has ended, it must notify DQA in writing. An initial survey will be completed by the State Agency or Accreditation Organization to determine compliance with all applicable hospital Conditions of Participation and Wis. Admin. Code ch. DHS 124, Hospitals.

For additional guidance from CMS regarding Infection Control and Prevention of COVID-19 see CMS Memorandum QSO-20-22- ASC, CORF, CMHC, OPT, RHC/FQHCs. This guidance discusses recommendations to mitigate transmission including screening, restricting visitors, cleaning and disinfection, and possible closures. Supply scarcity guidance and FDA recommendations are also included in this memo.

State of Wisconsin Statutory Requirements

Wis. Stat. [50.33\(2\)\(a\)](#) "Hospital" means any building, structure, institution or place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment of and medical or surgical care for 3 or more nonrelated individuals hereinafter designated patients, suffering from illness, disease, injury or disability, whether physical or mental, and including pregnancy and regularly making available at least clinical laboratory services, and diagnostic X-ray services and treatment facilities for surgery, or obstetrical care, or other definitive medical treatment.

(b) "Hospital" may include, but not in limitation thereof by enumeration, related facilities such as outpatient facilities, nurses', interns' and residents' quarters, training facilities and central service facilities operated in connection with hospitals.

(c) "Hospital" includes "special hospitals" or those hospital facilities that provide a limited type of medical or surgical care, including orthopedic hospitals, children's hospitals, critical access hospitals, mental hospitals, psychiatric hospitals or maternity hospitals.

50.35 Application and approval. *Application for approval to maintain a hospital shall be made to the department on forms provided by the department. On receipt of an application, the department shall, except as provided in s. [50.498](#), issue a certificate of approval if the applicant and hospital facilities*

meet the requirements for hospitals... Except as provided in s. [50.498](#), this approval shall be in effect until, for just cause and in the manner herein prescribed, it is suspended or revoked. The certificate of approval may be issued only for the premises and persons or governmental unit named in the application and is not transferable or assignable. The department shall withhold, suspend, or revoke approval for a failure to comply with s. [165.40 \(6\) \(a\) 1.](#) or [2.](#), but, except as provided in s. [50.498](#), otherwise may not withhold, suspend, or revoke approval unless for a substantial failure to comply with the requirements for hospitals after giving a reasonable notice, a fair hearing, and a reasonable opportunity to comply. Failure by a hospital to comply with s. [50.36 \(3m\)](#) shall be considered to be a substantial failure to comply under this section.

Resources

CMS Memorandum [QSO-20-24-ASC](#)

CMS Memorandum [QSO-20-22- ASC, CORF, CMHC, OPT, RHC/FQHCs](#)

CMS [Hospital Waivers](#)

DQA Memo [20-001 State Licensure Application for Temporary Expansion Locations during Public Health Emergency related to COVID-19](#)

Wisconsin [Hospital Licensure and Certification](#)

Wisconsin [Hospital Regulations](#)

Wisconsin [DHS COVID-19](#)

Questions

For questions related to licensure or the CoA application process, please contact [Thomas Rylander](#) and [Angela Mack](#).

For questions related to Physical Environment or Life Safety Code, please contact [Henry Kosarzycki](#).

For general questions regarding the information in this memo, please contact [Ann Hansen](#).