



Timelines for Implementation of Nursing Home Transparency and Improvement

02.11.2011

02.11.2011

The Patient Protection and Affordable Care Actⁱ was enacted on March 23, 2010 when it was signed into law by President Obama. Title VI, Subtitle B of the Act is called "Nursing Home Transparency and Improvement," and each section of Subtitle B has one or more timelines for the implementation of that section. The time for implementation of some sections is easy to determine as certain sections state "this takes effect 1 year after date of enactment" or the Secretary of Health and Human Services ("Secretary") will implement this section "no later than 1 year after enactment." For other sections, the timeline does not begin until promulgation of regulations by the Secretary. Final regulations and proposed regulations are published in the Federal Register. A search of the Federal Register shows that proposed regulations have been issued for only one section (Sec. 6111) of Subtitle B.

Sec. 6101 Required Disclosure of Ownership and Additional Disclosable Parties Information

- The effective date for disclosure of ownership is divided into two different time periods depending on whether the information is requested.
- When requested, a facility must make the disclosure information available to the Secretary, the Inspector General, the state, and state long-term care ombudsman effective as of March 23, 2010.ⁱⁱ
- Facilities are to have the information requested in the section regardless of whether the information is requested "beginning on the effective date of the final regulations"ⁱⁱⁱ. The effective date of the regulations is 90 days after the regulations are published in the Federal Register.^{iv} The Secretary is required to promulgate final regulations "Not later than the date that is 2 years after the date of the enactment of this subsection"^v. The subsection was enacted into law on March 23, 2010, so the Secretary must promulgate final regulations by March 23, 2012. A search of the Federal Register indicates that the Secretary has not published final regulations under this section as of August 2010. The HHS website does not disclose when the Secretary plans on publishing the regulations, and no proposed regulations can be found on the Federal Register as of August 2010.

Sec. 6102 Accountability Requirements for Skilled Nursing Facilities and Nursing Facilities

-

Facilities shall be in compliance with this Section by March 23, 2013.^{vi}

- The Secretary is required to promulgate regulations for effective compliance with this Section no later than March 23, 2012.^{vii} Facilities cannot be in compliance until the regulations are promulgated by the Secretary, so if it takes 2 years to promulgate the regulations, facilities would have only 1 year to comply.
- The Secretary must establish and implement a quality assurance and performance improvement program by December 31, 2011.^{viii} Facilities must submit their plans to the Secretary on how they will meet such standards within 1 year after the Secretary's implementation.^{ix}
- A search of the Federal Register and the HHS website indicates that regulations have not been promulgated as of August 2010.

Sec. 6103 Nursing Home Compare Medicare Website

- The Secretary must ensure that information described in this Section is included in the website no later than March 23, 2011.^x This section takes effect on March 23, 2011.^{xi}

Sec. 6104 Reporting of Expenditures

- Facilities shall report direct care expenditures beginning March 23, 2012.^{xii}

Sec. 6105 Standardized Complaint Form

- This section takes effect on March 23, 2011.^{xiii}

Sec. 6106 Ensuring Staffing Accountability

- Facilities shall submit to the Secretary direct care staffing information beginning no later than March 23, 2012.^{xiv}

Sec. 6107 GAO Study and Report on Five-Star Quality Rating System

- The Comptroller General shall submit to Congress the results of the study no later than March 23, 2012.^{xv}

Sec. 6111 Civil Money Penalties

- This section takes effect on March 23, 2011.^{xvi} The proposed rules for this section were published in the Federal Register on July 12, 2010.^{xvii}

Sec. 6112 National Independent Monitor Demonstration Project

- The Secretary will implement this project no later than March 23, 2011.^{xviii}

Sec. 6113 Notification of Facility Closure

- This section takes effect on March 23, 2011.^{xix}

Sec. 6114 National Demonstration Projects on Culture Change and Use of Information Technology in Nursing Homes

- The Secretary will implement these projects no later than March 23, 2011.^{xx}

Sec. 6121 Dementia and Abuse Prevention Training

- This section takes effect on March 23, 2011.^{xxi}

For more information about this topic, please contact the author or any member of the Williams Mullen Long Term Care Industry Services Group.

- ⁱ Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (HR 3590) at Tit. VI, subtit. B, ?? 6101-6121 (2010).
- ⁱⁱ Id. at 6101(a).
- ⁱⁱⁱ Id.
- ^{iv} Id.
- ^v Id. at 6101(b).
- ^{vi} Id. at 6102(b)(1).
- ^{vii} Id. at 6102(b)(2)(A).
- ^{viii} Id. at 6201(c)(1).
- ^{ix} Id.
- ^x Id. at 6103(a)(2)(A)(ii).
- ^{xi} Id. at 6103(a)(2)(B).
- ^{xii} Id. at 6104(f)(1).
- ^{xiii} Id. at 6105(b).
- ^{xiv} Id. at 6106(g).
- ^{xv} Id. at 6107(b).
- ^{xvi} Id. at 6111(c).
- ^{xvii} <http://edocket.access.gpo.gov/2010/pdf/2010-16927.pdf>
- ^{xviii} PPACA, 6112(a)(4).
- ^{xix} Id. at 6113(c).
- ^{xx} Id. at 6114(c)(2).
- ^{xxi} Id. at 6121(c).

The Firm would like to acknowledge Karen Smith, a Regent University Law School student, for her significant contribution to this article.

Please note:

This newsletter contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with particular needs on specific issues should retain the services of competent counsel. For more information, please visit our website at www.williamsmullen.com or contact Beth G. Hungate-Noland, 804.420.6913 or bhungate-noland@williamsmullen.com or Joel R. Nied, 757.473.5342 or jnied@williamsmullen.com. For mailing list inquiries or to be removed from this mailing list, please contact Margaux Sprinkel at msprinkel@williamsmullen.com or 804.420.6315.

Related People

Related Services

- Litigation
- Senior Housing Transactions