



ADDENDUM

RURAL HEALTH CLINIC ONE YEAR WAIVER PROVISION REGARDING CLINIC STAFFING REQUIREMENTS

Section 1861 (aa)(7) requires the Centers for Medicare and Medicaid Services (CMS) to waive for one year the RHC staffing requirements that the clinic employ a nurse practitioner, physician assistant, or certified nurse-midwife or that such disciplines furnish services 50 percent of the time that the clinic operates if:

- The facility requests a waiver;
- The facility demonstrates that it has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous 90 day period; and
- The facility is not making the request less than six months after the date of the expiration of any previous such waiver for the facility.

The waiver is applicable to participating RHCs. The State Agency (Illinois Department of Public Health) is responsible for recommending approval or disapproval of the requested waiver to the Centers for Medicare and Medicaid Services (CMS) Regional Office (RO) within 30 days of receiving it. The waiver shall be deemed granted unless the waiver request is denied by the Regional Office within 60 days after the date the State Agency receives the request. In such situations, the effective date of the one year waiver is the 61st day after the date the request is received by the State Agency (SA). The SA uses the date the RO approves the waiver as the effective date of the 1 year waiver period.

A. Applying the Waiver to Applicants

The applicant cannot request a waiver of the mid-level requirement on the initial application. In 4205 (c) of the BBA, that Congress amended, effective January 1, 1998, 1861 (aa) (7) (B) of the Act to restrict further CMS authority to waive the requirement that each RHC must hire a physician assistant, nurse practitioner or certified nurse-midwife. A waiver may now be granted to **ONLY** a participating RHC. That is, the waiver cannot be granted before the clinic has been determined by CMS to meet all the requirements for Medicare participation as a RHC and is actually participating as a RHC.

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B. Applying the Waiver to Participating RHC's

A participating RHC may request a waiver either when it loses its nurse practitioner, physician assistant, or certified nurse-midwife or when it fails to meet the 50% staffing requirement regarding these disciplines.

Some RHCs will probably experience an unexpected loss of staff, and therefore, will not be able to demonstrate any effort to hire staff in the previous 90 day period. In this situation, the RHC must comply with the staffing requirement within 90 days from the date the State Agency is notified that the RHC no longer meets the staffing requirement. The RHC may have certification terminated unless a waiver request is submitted by the RHC and approved by CMS Regional Office by the end of the 90 day period.

C. Documentation Demonstrating Efforts to Meet Staffing Requirements

The RHC must submit written documentation to the State Agency demonstrating its reasonable efforts to hire the required staff. This documentation should evidence ongoing activities throughout the 90 day time period prior to making a waiver request. The following types of documentation are acceptable:

- Copies of letters sent to, and received from, potential hirees;
- Copies of reports of telephone contacts with potential hirees, professional schools and organizations, recruiting services, etc.
- Information about trips to professional meetings, educational institutions, and health care facilities for recruiting purposes;
- Copies of advertisements for recruiting hirees; and
- Results of personal interviews with potential hirees.