

Rural Health Panel

Keith J. Mueller, Ph.D., Chair
Alana Knudson, Ph.D.
Jennifer P. Lundblad, Ph.D., M.B.A.
A. Clinton MacKinney, M.D., M.S.
Timothy D. McBride, Ph.D.
Alva Ferdinand, Dr.PH., J.D.

College of Public Health – N232A
145 River Street
Iowa City, IA 52242
(319)-384-3832
Keith-mueller@uiowa.edu

June 8, 2022

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-9972-P
P.O. Box 8012
Baltimore, MD 21244-1850
By electronic submission at <http://www.regulations.gov>

RE: CMS-1765-P: Medicare Program: PPS and Consolidated Billing for Skilled Nursing Facilities; Request for Information on Revising Requirements for Long-Term Facilities to Establish Mandatory Minimum Staffing Levels

The Rural Policy Research Institute Health Panel was established in 1993 to provide science-based, objective policy analysis to federal lawmakers. The Panel is pleased to offer comments in response to the request for information on Revising the Requirements for Long-Term Care Facilities to Establish Mandatory Minimum Staffing Levels. Our comments are limited to rural-specific questions posed, or issues stated, in the draft rule.

Revising requirements for LTC facilities to establish mandatory minimum staff levels

The Panel is responding to the *request for information* that begins on page 22794 of the *Federal Register* 87(73), in particular questions 6, 15, and 16. Generally, the Panel cautions against tying staffing levels and staffing turnover to quality payments under the Skilled Nursing Facility (SNF) Value-Based Purchasing (VBP) program. CMS must consider factors influencing turnover rates, especially the ongoing healthcare labor shortage. Retention efforts, such as effective managerial practices and human resource oversight is imperative to assess and address staff satisfaction levels. For example, a rural SNF may experience high turnover due to low nurse-to-support staff ratios, limited secretarial support, poor housekeeping regimes, and inadequate ancillary support. The reality of multiple variables affecting nursing staff recruitment and retention includes developing measures of total staffing available in SNFs, a point made by CMS in this proposed rule.

Furthermore, a rural SNF's ability to recruit additional nurse staff may be hindered due to the labor shortage, thus exacerbating the current staff satisfaction levels further. In conjunction with the factors influencing turnover, CMS must be cognizant of and adjust benchmarks to account for rural facilities and communities with small numbers. The Panel believes quality and staffing measures are meaningful, but we do not support linking staffing levels to quality payments. The Panel predicts the financial incentive would have a negative downstream effect on a facility's operating margin and overall access to care. The Panel supports continuing to collect and report the data regarding nursing staffing, through Medicare Compare.

Question 15 asks about unintended consequences in implementing a minimum staffing ratio. The Panel notes the following

- Cost of recruiting and hiring additional nursing staff in a market characterized by shortages and multiple opportunities may exceed resources of small rural facilities, which could in turn threaten access for rural Medicare beneficiaries. Steps could be taken to adjust payment, or in other ways assist targeted facilities to offset those costs.
- Changes to staffing ratios as an element of payment will influence rules for state survey processes.

We appreciate this opportunity to share the RUPRI Panel's assessment of this proposed rule.

Respectfully submitted,

A handwritten signature in cursive script that reads "Keith J. Mueller".

Keith J. Mueller, Ph.D.
Chair, RUPRI Health Panel