



FACT SHEET

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Medicare Program: CMS Requests Stakeholder Feedback on Accrediting Organizations Conflict of Interest and Consulting Services; Request for Information (CMS-3367-NC)

On December 18, 2018, the Centers for Medicare & Medicaid Services (CMS) issued a Request for Information Notice [CMS-3367-NC]. This Request for Information Notice seeks public comment regarding the appropriateness of some Medicare-approved Accrediting Organizations (AOs) offering fee-based consultative services to Medicare-participating providers and suppliers that they also accredit as part of their business model. CMS is seeking to receive stakeholder input which can help us determine whether the AO practices of consulting with the same facilities which they accredit could create actual or perceived conflicts of interest between the accreditation and consultative functions of the AO. We intend to consider information received in response to this RFI to assist in potential future rulemaking.

Typical consultative services provided by some Accrediting Organizations include the following:

- Assistance for clinical and non-clinical leaders, including administrators in understanding the AO and CMS standards for compliance;
- Review of facility standards and promised early intervention and action through simulation of a real survey, similar to a mock survey to include comprehensive written reports of findings;
- Review of a facility's processes, policies and functions;
- Identification of and technical assistance for changing and sustaining areas in need of improvement; and,
- Educational consultative services.

CMS has been aware for some time that some AOs with CMS-approved accreditation programs also provide these fee-based consultative services to Medicare-participating health care facilities. Although we understand that these services often assist facilities with improvement activities to enhance their care, CMS is issuing this RFI in response to increasing concern about potential or

perceived conflicts of interest created by the accreditation and consultative activities of the Accrediting Organizations.

We are seeking feedback on a number of questions related to this potential conflict of interest, including whether we should revise our review process to identify actual, potential or perceived AO conflicts of interest as part of the application and renewal process for all AOs. Although our regulations (at 42 CFR Section 488.5(a)(10)) now require that the application include the organization's policies and procedures to avoid conflicts of interest, involving individuals who conduct surveys and participate in accreditation decisions, we are seeking comment on ways to enhance this oversight and review process.

As part of this RFI, we are also soliciting feedback on addressing potential conflicts for accrediting organizations that provide accreditation to providers and suppliers that must be accredited in order to receive payment from Medicare for services they furnish to Medicare beneficiaries, which are Advanced Diagnostic Imaging (ADI), Diabetes Self-Management Training (DSMT), Durable Medical Equipment (DME), Home Infusion Therapy (HIT) suppliers and Clinical Laboratories under the Clinical Laboratory Improvement Act (CLIA).

The RFI builds on efforts CMS announced in October 2018 strengthening the oversight of AOs including increasing the transparency of AO findings and piloting a revised process to validate the AO's findings. CMS also released the FY2017 Report to Congress on AO performance which noted differences between AOs and States in identification of quality issues particularly in hospitals and psychiatric hospitals. We are in the process of finalizing the FY2018 Annual Report to Congress, expect similar findings, and are continuing to address these differences as we strengthen AO oversight.

CMS encourages comments, questions, or thoughts in response to this Request for Information.

The Request for Information Notice can be viewed at <https://www.federalregister.gov/public-inspection>.