CMS Releases New Requirements for Medicare-funded Facilities Offering Obstetric and Emergency Services

On November 1, the Centers for Medicare and Medicaid Services (CMS) released final regulations for Medicare-funded facilities that offer labor and delivery services and emergency services. The new requirements, part of Medicare's Conditions of Participation (CoP), are intended to improve maternal health outcomes and reduce disparities by implementing a minimum standard for facilities.

As part of our comments on the draft regulations, Society for Maternal-Fetal Medicine (SMFM) urged CMS to stagger the implementation dates of the new requirements to give facilities ample time to prepare. In response to SMFM comments and others, CMS finalized a 3-year implementation timeline.

Below you will find details on the new requirements from CMS's fact sheet. Further details are included in the final rule. Additional details on complying with the new regulations will be released in the coming weeks and months through subregulatory guidance. SMFM will continue to engage with the agency during the process to ensure our members' perspectives and needs are represented.

SMFM encourages you to reach out to your hospital leadership team to learn more about plans to comply with the new CMS requirements. Please reach out to SMFM's Advocacy Team if we can be of assistance by emailing Rebecca Abbott, Senior Director of Advocacy at rabbott@smfm.org.

Phase 1 Requirements

Facilities must comply with the requirements below by July 1, 2025

Emergency Services Readiness

CMS will require that any hospitals and critical access hospitals (CAHs) with emergency services, even those that do not provide obstetric services, have adequate provisions and protocols to meet the emergency needs of pregnant and postpartum patients. Specifically, hospitals and CAHs must have protocols consistent with nationally recognized and evidence-based guidelines for the care of patients with emergency conditions. Additionally, CMS is requiring that applicable staff be trained on these protocols and provisions annually, and documentation would be expected to show that staff have successfully completed such training and can demonstrate knowledge on these topics.

Lastly, CMS is finalizing, for hospitals only, a requirement that such facilities set aside provisions for emergencies. Such provisions include equipment, supplies, and medication used in treating emergency cases. Although not requiring specific items, the available provisions must include:

1. Drugs, blood and blood products, and biologicals commonly used in lifesaving procedures.
2. Equipment and supplies commonly used in lifesaving procedures.
3. Call-in system for each patient in each emergency services' treatment area.

Of note, the emergency supply requirements are not necessary for CAHs and Rural Emergency Hospitals (REHs), as CAHs and REHs already have emergency supply requirements included in their CoPs.

Transfer Protocols

CMS will require hospitals to have written policies and procedures for transferring patients under its care, which will include intra-hospital transfers of hospital inpatients (for example, transfers from the emergency room to inpatient admissions, transfers between inpatient units in the same hospital, and transfers between inpatient units at different hospitals), to the appropriate level of care as needed to meet the patient's needs. Hospitals must provide annual training to the relevant staff regarding the hospital policies and procedures for transferring patients under its care.

Of note, the new transfer protocols requirements are not necessary for CAHs and Rural Emergency Hospitals (REHs), as CAHs and REHs already have similar requirements included in their CoPs.

Phase 2 Requirements

Facilities must comply with the requirements below by January 1, 2026

Organization and Staffing

For facilities offering labor and delivery service, CMS will require that obstetric services be well organized and provided in accordance with nationally recognized acceptable standards of practice for the health care (including physical and behavioral health) of pregnant, birthing, and postpartum patients. Further, the organization of the obstetric services must be appropriate to the scope of services offered by the facility and be integrated with other departments in the facility. Additionally, obstetric patient care units must be supervised by an individual with the necessary education and training, such as an experienced registered nurse, certified midwife, nurse practitioner, physician assistant, or Doctor of Medicine or osteopathy. CMS will also require that obstetric privileges be granted subject to written criteria for all practitioners providing obstetric care in accordance with the current requirements for hospitals and CAHs.

Delivery of service

Facilities offering labor and delivery services will be required to keep and have readily available basic equipment for treating obstetric cases (including a call-in-system, cardiac monitor, and fetal doppler/monitor) to meet the needs of patients in accordance with the scope, volume, and complexity of services offered by the facility. CMS notes that hospitals and CAHs may maintain these and other obstetrical emergency supplies in "crash carts," "obstetrical emergency carts/bags/boxes/kits," "OB hemorrhage carts," or other readily accessible method for use when and where needed. CMS expects facilities to stock equipment in a manner that aligns with the facility's scope, volume, and complexity of OB services offered (that is, per facility, per unit, or per room in order to meet the needs of patients).

CMS will also require that facilities ensure that they have adequate, readily available provisions and protocols consistent with nationally recognized and evidence-based guidelines for obstetric emergencies, complications, immediate post-delivery care, and other patient health and safety events. Although not requiring specific items, examples of provisions would include equipment, supplies, and blood used in treating emergency cases.

Phase 3 Requirements

Facilities must comply with the requirements below by January 1, 2027

Quality Assessment and Performance Improvement (QAPI) Program

Hospitals or CAHs providing OB services must use their QAPI programs to assess and improve health outcomes and disparities among obstetric patients on an ongoing basis. According to CMS, this marks the first time that facilities must use their QAPI programs to address health disparities.

At a minimum, the facility will have to:

1. Analyze data and quality indicators collected for the QAPI program by diverse subpopulations as identified by the facility among OB patients.
2. Measure, analyze, and track data, measures, and quality indicators on patient outcomes and disparities in processes of care, services and operations, and outcomes among obstetrical patients.
3. Analyze and prioritize patient health outcomes and disparities, develop and implement actions to improve patient health outcomes and disparities, measure results, and track performance to ensure improvements are sustained when disparities exist among obstetrical patients.
4. Conduct at least one performance improvement project focused on improving health outcomes and disparities among the hospital's population(s) of obstetrical patients annually.

CMS will require that obstetrical services' leadership engage in OB QAPI activities. It will also require that if a Maternal Mortality Review Committee (MMRC) is available at the state, Tribal, or local jurisdiction in which the facility is located, hospitals and CAHs that offer OB services must have a process for incorporating publicly available information and data from the MMRC into the hospital or CAH QAPI program.

Staff Training

CMS will require that hospitals and CAHs providing labor and delivery services develop policies and procedures to ensure that relevant staff are trained on certain topics aimed at improving the delivery of maternal care. Such trainings must be completed by relevant new staff upon hire and the once every two years.

CMS requires that these training topics reflect the scope and complexity of services offered, including, but not limited to, facility-identified, evidence-based, best practices and protocols to improve the delivery of maternal care within the facility. Additionally, facilities will be required to use findings from their QAPI programs to inform staff training needs and any additions, revisions, or updates to training topics on an ongoing basis. Hospitals and CAHs must also document in staff personnel records that training was successfully completed and be able to demonstrate staff knowledge on the training topics identified.