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## HCFA Needs Better Assurance That Hospitals Meet Medicare Conditions of Participation

Statement of
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Subcommittee on Health
Committee on Ways and Means
House of Representatives

## SUMMARY

The Department of Health and Human Services' Health Care Financing Administration (HCFA) currently relies on the Joint Commission on Accreditation of Healthcare Organizations to act on its behalf to assure that problems in most hospitals serving Medicare patients are identified and resolved. HCFA does not now have the necessary assurance that hospitals surveyed by the Joint Commission are complying with Medicare requirements.

HCFA does not know the extent to which it can direct the Joint Commission to alter its accreditation process to meet HCFA's needs. GAO believes, however, that HCFA should attempt to guide the Joint Commission's activities to assure that hospitals meet Medicare requirements. If this effort is unsuccessful, alternatives to the present system of reliance on the Joint Commission's accreditation process can be considered. But none of the alternatives appears to be clearly superior to the current system if it were operating well. Therefore, GAO makes several suggestions to improve that system.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to present our views on the system being used to assure that hospitals are capable of providing quality care to Medicare patients.

Since 1987, several large hospitals in major U.S. cities have been identified in the media as providing substandard care. Various articles have cited incidents involving questionable patient deaths, incorrect medications, infections due to poor quality care, and generally unsanitary conditions, together with graphic examples of the impact such care is having on patients. In essence, the effectiveness of the systems to assure that quality care is provided in our nation's hospitals is being questioned. We found that, in some cases, this challenge is justified.

The Department of Health and Human Services' (HHS) Health Care Financing Administration (HCFA) relies on the Joint Commission on Accreditation of Healthcare Organizations to act on its behalf to assure that problems in most hospitals serving Medicare patients are identified and resolved. The Joint Commission accredits over 5,000 of the approximately 6,700 hospitals participating in Medicare. HCFA contracts with state agencies to conduct surveys of those hospitals that choose not to be accredited by the Commission to assure that they are in compliance with Medicare requirements.

HCFA also contracts with state agencies to conduct a small number of surveys in hospitals accredited by the Joint Commission. HCFA uses these surveys to help it assess the validity of the Joint Commission survey process and to assure that Medicare conditions of participation are being met.[1] But, to date, HCFA's reviews of the Commission's accreditation process have not provided it the necessary assurance that hospitals serving Medicare patients are complying with its conditions of participation.

Until 2 days ago, HCFA had relatively limited access to Joint Commission survey data. Thus, the extent to which specific problems existed in hospitals, and whether they were corrected, were generally unknown to HCFA. However, under P.L. 101-239, HCFA is now authorized to obtain any survey data it wants from the Joint Commission. If HCFA requests the right information from the Commission and uses it properly, HCFA should be able to identify any accredited hospital serving Medicare patients that has serious problems identified, and be aware of efforts made by the Commission to assure that corrective actions are being taken.

HCFA's access to Joint Commission data and the opportunities it presents for federal intervention does, however, raise a

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[1]Conditions of participation are health, safety, and quality standards which were developed to help HCFA assure that hospitals participating in the Medicare program are capable of providing quality care. There are 20 conditions prescribed in the Code of Federal Regulations relating to such areas as quality assurance, nursing services, and infection control.

significant issue: What should the roles of HCFA and the Joint Commission be in assuring that hospitals serving Medicare patients can provide quality care, and how should those roles be played out?

Two existing situations illustrate why the roles of HCFA and the Joint Commission should be clarified.

-- First, HCFA has not clearly identified its Medicare conditions of participation within the Joint Commission standards. Further, HCFA has not developed a usable guideline to determine whether the findings in the Commission survey reports relate to Medicare conditions of participation. As a result, HCFA does not know whether accredited hospitals are capable of providing high-quality health care.

-- Second, the Joint Commission process for following up on corrective actions taken by hospitals in which problems have been identified takes much longer than HCFA believes is appropriate. As a result, HCFA does not know whether serious problems in hospitals serving Medicare patients are being corrected promptly.

## HISTORICAL PERSPECTIVE ON THE ROLES OF THE JOINT COMMISSION AND HCFA

To provide a better understanding of the current relationship between HCFA and the Joint Commission, a quick review of the legislative history regarding Medicare certification of hospitals is in order.

Under the Medicare law adopted in 1965, the Joint Commission's accreditation of hospitals providing care to Medicare patients was to serve as evidence that hospitals were also in compliance with Medicare conditions of participation.[2] The Commission's accreditation process was not subject to federal review. Also, the Commission's survey reports were confidential and available only to its personnel and officials associated with the concerned hospitals. Further, conditions of participation established by the Secretary of HHS could be no more stringent than related Joint Commission standards.

The Medicare legislation drew criticism in two areas. First, the federal government was unable to determine the extent to which specific deficiencies existed in the majority of hospitals

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[2]The Medicare law also required hospitals to have effective internal utilization review processes.

participating in Medicare. Second, the law permitted a private organization to develop hospital standards for Medicare.

In 1972, the Congress amended the 1965 legislation and required HHS to review hospitals accredited by the Joint Commission to validate the Commission's accreditation process. HHS was also given authority to develop or modify conditions of participation if it determines that existing requirements are inadequate. Late last year, the Congress enacted P.L. 101-239, which gives HCFA access to any Joint Commission data relating to Commission surveys of hospitals serving Medicare patients.

## MEDICARE CONDITIONS OF PARTICIPATION NEED TO BE CLEARLY IDENTIFIED IN JOINT COMMISSION STANDARDS

As we reported to you last week, HCFA analysts often find differences in the problems identified at hospitals by state survey agencies and the Joint Commission.[3] This does not mean, however, that there are significant problems in the Commission's accreditation process. State agency survey findings relate to problems involving Medicare conditions of participation. Joint Commission survey reports identify problems in terms of Commission standards that are not being adhered to. But the two sets of

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[3]Health Care: Criteria Used to Evaluate Hospital Accreditation Process Need Reevaluation (GAO/HRD-90-89, June 11, 1990).

criteria are different, and there is no means to easily identify which Medicare conditions of participation relate to specific Commission standards. As a result, the significance and causes of differences in survey findings are difficult for HCFA analysts to assess.

Before Joint Commission survey results can be meaningfully interpreted by HCFA, a connection must be made between the Commission's findings and applicable Medicare conditions of participation. To do this, a comprehensive and usable guideline (crosswalk) is needed to establish a direct relationship between each Medicare condition and the comparable Commission standards. We understand that HCFA and the Commission are working to develop such a crosswalk. We must await the outcome of this effort to see how effective it will be.

## CORRECTIVE ACTIONS ON PROBLEMS IDENTIFIED BY THE JOINT COMMISSION NEED TO BE MORE TIMELY

After accreditation surveys have been completed, the Joint Commission often takes up to a year to conduct its analyses and follow-up of survey findings. As a result, there is no assurance that significant problems identified by the Commission are being corrected promptly. In contrast, for hospitals outside the

Commission's accreditation process, HCFA generally takes about 40 days to follow up on problems identified by state survey agencies.

From July 1, 1989 to April 23, 1990, the Joint Commission identified 28 hospitals that had serious problems and were in jeopardy of losing their accreditation. The Commission gave these hospitals what is called conditional accreditation. But these problems were not new. In 25 of the 28 hospitals, several problems cited in 1989 surveys were also present in 1986, when previous accreditation surveys were performed. For example, in 1989, Joint Commission surveyors reported that one hospital did not have a system in place to monitor whether patients with bloodstream infections received antibiotics. As a result, physician surveyors reported that needless deaths were possible. In 1986, the same problem was cited and the same conclusion reached.

The Joint Commission's follow-up of problems identified in surveys conducted in 1986 was slow. In fact, it did not follow up on most of the problems until late 1987 and early 1988. Further, it did not notify the affected hospitals of the results of the follow-up actions until 1989. Since the next scheduled accreditation surveys at most of these hospitals were only a few months away, the Joint Commission deferred taking actions on their accreditation status until completion of the 1989 surveys.

The timeliness problem encountered could recur in 1989. The Joint Commission took from 3 to 6 months to analyze survey data before it notified any of the 28 hospitals that they were about to receive a conditional accreditation. Each hospital was then given time to submit a corrective action plan. As of April 23, 1990, the Commission had scheduled only 2 hospitals for follow-up. These are scheduled within 6 months from the date that the hospitals' corrective actions were approved. The first follow-up is scheduled for July 1, 1990.

Until recently, HCFA was not aware of how long the Joint Commission took to follow up on these hospitals' corrective actions. Further, it did not know that the Commission decided to defer action on these hospitals' accreditation status until after the 1989 surveys had been completed. The President of the Joint Commission told us that the Commission allows longer time frames for follow-up actions so that hospitals can develop sufficient documentation to show that they have corrected identified problems. The Director of HCFA's Health Standards and Quality Bureau informed us that the Joint Commission's time frame of up to 1 year to analyze and follow up on problems is unacceptable.

## CONCLUSION

Mr. Chairman and Subcommittee Members, HCFA needs to be sure that hospitals serving Medicare patients are capable of providing

high-quality care. At present, HCFA does not have that assurance because its efforts to validate the Joint Commission's accreditation process are hampered by the problems we have discussed today. Moreover, HCFA is unsure of the extent of its authority to require the Commission to alter its accreditation process to meet HCFA's needs.

We believe that HCFA should attempt to guide the Joint Commission's activities to assure that hospitals meet Medicare requirements. Specifically, HCFA and the Commission need to work together to assure that Commission standards relating to Medicare conditions of participation are identified and that Commission survey reports can be used to determine whether hospitals are out of compliance with Medicare conditions of participation. Further, HCFA and the Joint Commission should reach a mutually satisfactory solution on the best way to assure that (1) hospitals promptly correct problems the Commission identifies that relate to Medicare conditions of participation and (2) HCFA is quickly informed of these actions.

If HCFA and the Joint Commission cannot agree on these issues, alternatives to HCFA's reliance on the present system of Commission accreditation can be considered. Options include (1) establishing an organization within HCFA to conduct hospital surveys, (2) contracting with state agencies to conduct all hospital surveys, and (3) contracting with private organizations

other than the Joint Commission to perform hospital surveys under the auspices of HCFA. Each of these potential alternatives would be time consuming and expensive to establish, and would likely require changes to existing Medicare legislation.

None of the above alternatives appears to be clearly superior to the current system if it were operating well. Thus, we believe that if HCFA finds that it cannot make the system work effectively within its existing legislative authority, the Congress should consider providing HCFA the authority it requires to be sure that the Joint Commission's accreditation process is effectively serving the Medicare population.

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This concludes my prepared statement. We will be pleased to respond to your questions.