

## **CMS Proposes Regulatory Relief for RHCs**

***By Bill Finerfrock***

The Centers for Medicare & Medicaid Services (CMS) has issued a new proposed rule recommending a change in the RHC regulations governing employment of PAs & NPs working in the RHC setting. The proposed change was published in the September 23rd Federal Register.

CMS has for some time taken the position that ALL PAs and NPs working in RHCs must be employees of the RHC as evidenced by the issuance of a W-2. NARHC has long argued that this was an overly narrow reading of the RHC statute and has, instead, recommended that RHCs have greater flexibility in their employment relationships. More specifically, we have urged CMS to allow PAs and NPs to be “independent contractors” to the RHC rather than exclusively “employees.”

In a compromise intended to move closer to the Association’s position, CMS has proposed that in situations where the RHC “employs” multiple PAs and/or NPs, only one of those PAs or NPs must be an employee (i.e. W-2). Once the RHC has met the “employ” requirement with one individual, the RHC would be free to establish whatever employment relationship is acceptable to the PA/NP and the RHC and permissible by state law.

If adopted, this proposed change would not remove the requirement that RHCs have a PA or NP on-site & available to see patients at least 50% of the time the clinic is open. It would simply allow more flexibility in the employment relationship between the RHC and the PAs/NPs the clinic “employs”.

The proposed rule is available for public comment for 60 days. At that time, CMS will review all of the comments submitted & then move to issue a final rule on this topic. Absent any opposition, we anticipate that the new policy could be in place by Spring of 2014. Please do not hesitate to contact NARHC if you have any questions about this proposed policy change.