

Esme Grant Grewel  
Vice President Government Relations  
ANCOR  
1101 King Street, Suite 380  
Alexandria, VA 22314

Dear Ms. Grewel:

Thank you for your letter requesting that the phase in period be extended from three years to five years for compliance with 42CFR 483.470 (j) (1) (iv) which requires either sprinkling or heat detection of attics by Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) under Residential Board and Care Occupancies.

On May 4, 2016 CMS published Final Rule CMS-3277 entitled Medicare and Medicaid Programs: Fire Safety Requirements for Certain Health Care Facilities which adopted the 2012 Edition of the National Fire Protection Association (NFPA) Life Safety Code (LSC). This rule became effective July 5, 2016. The 2012 Code included new provisions which required that the attics of new and existing ICF/IID facilities be sprinklered. If an attic is used for living purposes, storage or fuel-fired equipment the sprinklers must be part of the required, approved automatic sprinkler system.

If an attic is not used for any of the above purposes, the attic must be:

1. protected by a heat detection system, which will activate the building fire alarm system;  
or
2. protected by automatic sprinklers part of the required, approved automatic sprinkler system; or
3. of non-combustible or limited combustible construction; or
4. constructed of fire retardant treated wood.

According to the LSC handbook, the intent of these requirements was to protect occupants by preventing an undetected fire from developing in an attic space and overwhelming the sprinkler system in the occupied portions of the building. The requirements were determined to be necessary and critical in the wake of a fire in a Residential Board and Care Occupancy facility that resulted in four (4) deaths.

Although CMS did receive comments on the proposed Rule regarding the length of the proposed phase in period for these requirements, CMS maintained the three (3) year phase in period. That

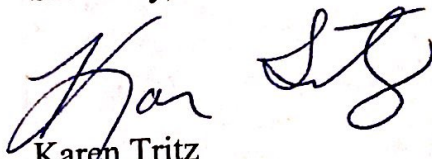


phase-in period ends on July 5, 2019. . CMS determined that attics had less square footage than sprinklering the entire building, therefore 3 years was determined to be the appropriate amount of time to come into compliance with this requirement.

CMS has no waiver authority for these requirements and no authority to further delay the phase-in period. Nor would it be prudent for us to support any such delay when balanced against the risks that are present for the ICF/IID clients.

If you have any other questions please feel free to contact Karen Tritz, the Acting Director of the Quality, Safety & Oversight Group at [Karen.Tritz@cms.hhs.gov](mailto:Karen.Tritz@cms.hhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Karen Tritz', with a stylized flourish at the end.

Karen Tritz  
Acting Director, Quality, Safety, and Oversight  
Group  
Centers for Medicare & Medicaid Services