

New rules on hospital visitations for gays and lesbians

by [Bill Barrow](#)

November 19, 2010

(RNS) The Department of Health and Human Services unveiled regulations on Wednesday (Nov. 17) that will require hospitals that receive Medicare or Medicaid financing to drop any visitation policies that discriminate against gays, lesbians and transsexuals.

The new rule, which will take effect in January, requires that hospitals have a written policy that must be explained to all patients and allows patients to determine who may visit them, regardless of legal relationships.

Hospitals may limit visitation only if there is a clinical reason to do so, according to the rule, which will be added to the conditions for participating in the Medicaid and Medicare programs.

The rule will trump previous practices in many American hospitals that restricted visitors for some patients -- particularly in emergency rooms and intensive care units -- to spouses and immediate family, a limitation that often cut off gay and lesbian patients from their partners.

The final version, which follows a draft released in June, will go into effect Jan. 16, 60 days after Wednesday's publication in the federal register and eight months after President Obama first raised the issue in an April directive to Health and Human Services Secretary

Kathleen Sebelius.

"There are few moments in our lives that call for greater compassion and companionship than when a loved one is admitted to the hospital," Obama wrote in his memo ordering Sebelius to draft new rules on the issue. "In these hours of need and moments of pain and anxiety, all of us would hope to have a hand to hold, a shoulder on which to lean -- a loved one to be there for us, as we would be there for them. Yet every day, all across America, patients are denied the kindnesses and caring of a loved one at their sides."

In addition to gay and lesbian patients, the president cited widows or widowers who have no children and members of religious orders who never married as those who potentially are left without visitors.

Ken Choe, deputy general counsel at the Health and Human Services Department, said the president's order was "enthusiastically received" at the agency because "it is consistent with our mission here to improve the health of the entire population, including the LGBT population."

The rule would allow gay and lesbian partners to determine visitors for a patient who is incapacitated. The regulation stipulates that hospitals are to ask for documentation of a legal relationship only in the event that a patient cannot speak and there is a dispute among multiple parties.