March X, 2023

Chiquita Brooks-LaSure

Administrator

Centers for Medicare and Medicaid Services

7500 Security Blvd.

Baltimore, MD 21244

Dear Administrator Brooks-LaSure,

[Your organization] is writing regarding its concern about the implications of the Census Bureau’s finalized rule removing the terms “urbanized area” and “urbanized cluster,” and the subsequent publication of the 2020 Census Qualifying Urban Areas list.[[1]](#footnote-1) This change by the Census Bureau has an unintended but significant impact on rural health clinics (RHCs). **We ask that CMS publish guidance on how it plans to determine RHC eligiblity given the Census Bureau’s policy change regarding urban areas and urges CMS to preserve the status quo.**

[Include brief paragraph describing your organization.]

The RHC statute states that “the term [rural health clinics] includes only a facility which (i) *is located in an area that is not an urbanized area (as defined by the Bureau of the Census)*.”[[2]](#footnote-2) Accordingly, RHC regulations require that RHCs are located in “an area that is *not delineated as an urbanized area by the Bureau of the Census*.”[[3]](#footnote-3) Historically, the Census has defined urbanized area as those with a population of 50,000 or more.

The Census Bureau’s final policy for Urban Area Criteria, published in March 2022, removed two important terms that have an unintended impact upon RHC eligibility criteria. The Census removed two types of urban areas – “urbanized area” and “urbanized cluster” – and combined the two to create a single designation termed “urban area.”[[4]](#footnote-4) An urban area is now an area with a population of more than 5,000.

The Census’ policy change creates a two-fold problem for interpreting CMS’ RHC regulations. First, the “urbanized area” term in the regulations no longer exists for purposes of determining RHC eligiblity, so it is unclear how RHC eligiblity will be determined moving forward. Second, per the new Census criteria, an urban area is that with a population of 5,000 or more and thus rural means any area that falls outside of the urban area definition and has a population of less than 5,000.[[5]](#footnote-5) This is a drastic change from the previous 50,000 threshold as evidenced by the December 2022 list of new urban areas that now includes traditionally rural areas.

[Add examples of rural towns that are now considered urban in your state. You can find the list of “urban areas” [here](https://www.federalregister.gov/documents/2022/12/29/2022-28286/2020-census-qualifying-urban-areas-and-final-criteria-clarifications).]

We are disappointed in the silence from CMS on how it will handle RHC eligiblity since the Census Bureau’s new policy on urban areas has been out for one year. **This policy change by the Census Bureau leaves RHCs without clear guidance on how to move forward.** RHCs that began construction or the certification process predicated on eligibility from before the December 2022 Qualifying Areas publication now have no guidance on how to proceed.[[6]](#footnote-6)

[Include specific examples of clinics in your state that are stalled.]

As our examples indicate, the lack of clarification from CMS is causing issues on the ground for new RHCs. **[Your organization] urges CMS to release a memo on how it plans to move forward with RHC certification as soon as possible.** **We suggest that CMS preserve the status quo and clarify that RHCs in areas with a population of 50,000 or less continue to be eligible for the program.** We strongly caution CMS against adopting the 5,000 or less population threshold under the new Census urban area definition. This policy would unnecessarily restrict the areas that future RHCs could serve, threatening access to care for our rural residents.

[Your organization] thanks CMS for its continued support of rural communities across America. We look forward to working towards our mutual goal of improving quality and access to care. If you would like additional information, please contact [name] at [email/phone].

Sincerely,

[Add signature]

Name

Title

Organization

1. 87 Fed. Reg. 16706 (Mar. 24, 2022); 87 Fed. Reg 80114 (Dec. 29, 2022). [↑](#footnote-ref-1)
2. 42 U.S.C. 1395x(aa)(2). [↑](#footnote-ref-2)
3. 42 C.F.R. § 491.5(c)(1). [↑](#footnote-ref-3)
4. 87 FR 16707. [↑](#footnote-ref-4)
5. 87 FR 16711. [↑](#footnote-ref-5)
6. *See* 87 Fed. Reg. 16706 (Mar. 24, 2022). [↑](#footnote-ref-6)