Department of Human Services

Administrator Alert

Policy updates & rule clarifications for Nursing Facilities

Office of Licensing and Regulatory Oversight

November 7, 2013

Nursing Facility Licensing Unit News Hour Notes

The Nursing Facility Licensing Unit hosted a News Hour October 22, 2013.

The information included with this alert contains a summary of the October 22 News Hour presentation.

We plan to send out a Nursing Facility Licensing Unit News Hour schedule for 2014 in the near future, as we work toward reestablishing a quarterly presentation format. We welcome suggestions from you regarding topics of interest.

For questions about the enclosed material or suggested topics for an upcoming News Hour, please contact:

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October 22, 2013, DHS, Office of Licensing & Regulatory Oversight Nursing Facility News Hour Notes

Mike McCormick, Deputy Director, Aging and People with Disabilities provided an overview of House Bill 2216 including an explanation of the primary components:

- Reauthorizing the nursing facility provider assessment.
- Eliminating all provider assessment exemptions.
  - To reduce program costs and enhance the incentives associated with the capacity reduction initiative, all existing provider assessment exemptions (except for the VA Home) will be phased out on January 1, 2014. The assessment will sunset June 30, 2020.

- Establishing a statewide 1,500-bed reduction target that will bring Oregon's nursing facility occupancy rate of 63% closer to the national average of 83.7%.
  - DHS established a statewide reduction target of 1,500 nursing facility (NF) beds. Rural counties will be assessed and determined whether a facility is an Essential Nursing Facility.

- Providing an augmented rate for nursing facilities to buy and close other nursing facilities.
  - All licensed capacity at the purchased facility would be removed from the market. The purchasing facility will be required to meet criteria in the Quality and Efficiency Incentive Program and will receive an augmented rate for all Medicaid clients for a period of four years.

- Changing the certificate of need statute to ensure that new capacity is truly needed before new beds are developed.
  - Eliminates Certificate of Need (CON) exemptions to help keep the state's NF capacity at the appropriate level. Any facility wishing to expand would be required

to go through a full CON process. To improve this system, nursing facilities that are replacing outdated buildings will be able to use an expedited review process.

- Reducing nursing facility reimbursement rates if identified reduction targets are not achieved.
  - DHS will continue the current NF reimbursement rate methodology through June 30, 2020. Additionally, DHS will perform annual rebasing of rates so that the state can capture capacity reduction savings more efficiently. If the NF bed reduction target has not been met within the established timeframe, NF rates will be lowered proportionately until the target has been met. Once the target has been met, the NF rate will return to 63rd percentile.

- Providing protections for residents of nursing facilities that have been purchased. The purchasing provider is responsible for the transition of all residents within 180 days.
  - Nursing Facility closure rules have been temporarily revised with permanent rulemaking underway to align with new federal regulations, assuring orderly facility closures and resident transitions.

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Cathy Elizondo, DHS, Office of Licensing & Regulatory Oversight, Client Care Surveyor Trainer provided survey update information regarding Quality Indicator Survey (QIS) changes and survey preparation:

I. The following changes were made to QIS effective 8/1/13, with the goal to reduce onsite survey time, while retaining the reliability of data collected and sample size used:

A. Stage 1 – changes to certain questions to assist the reliability for triggering for further investigation. For example:

OLD	NEW
Is the facility clean?	Is the building clean?
Is this a comfortable building in which to live?	Do you have any problems with the temperature, lighting, noise or anything else in the building that affects your comfort?
Have you ever been treated roughly by staff?	Has staff, a resident or anyone else here abused you-this includes verbal, physical, or sexual abuse? If yes – the resident is asked if she/he knows who the person was, what happened, where it occurred and how often?
Do you participate in activity programs here?	Do you participate in any of the activity programs here?
Do any of the organized activities meet your interests?	Do the activities meet your interests?
Do you receive assistance for things you like to do, such as supplies, batteries, books?	Does staff provide items so you can do activities on your own? Like books, cards…

B. Stage 1 – Some Environmental Observation questions conducted with Census Sample now have their own QCLI (lighting, sound, and temperature). Surveyors are to only investigate the triggered area of concern rather than completing a full Environmental review.

C. Unnecessary Medication review has been reduced from 10 residents to five residents. A new Algorithm has been established to identify residents at a higher risk for negative outcomes. The Algorithm has a scoring system 0 to 18 – and those residents (5) with the highest score will be included as a sample for Stage 2 review. Residents with dementia related diagnoses and the use of psychopharmacological medications AND have potential adverse outcomes (i.e. weight loss, falls, fxs, sedation) have an increased potential for sample selection.

D. CMS has issued new guidance to surveyors for investigating compliance with F329 Unnecessary Medications and F309 Care and Services to residents with dementia. This is a result of the National Partnership to Improve Dementia Care and Reduce Unnecessary Antipsychotic Use.

****Appendix PP changes include:**

- Need for individualized therapeutic approaches in behavior management
- Expectation of resident/representative involvement to identifying possible underlying causes for behavioral distress
- Care planning of individualized non-pharmacological interventions
- Need for monitoring towards progress to defined therapeutic goals
- Revisions to Table I under guidelines for F329 which outlines additional diagnosis for possible indications for use (i.e. Tourette's disorder, Huntington's disease, hiccups (not medication induced), Nausea/Vomiting associated with chemotherapy or cancer
- List of Behavioral and Psychological Symptoms of Dementia (BPSD) which would NOT warrant an antipsychotic use

****Resources for providers:**

- CMS website - http://surveyortraining.cms.hhs.gov (3 surveyor training videos posted that are mandatory for survey agency staff)
- F 329 Interpretive Guidelines includes changes to Table 1 outlining indications for use of antipsychotics. This document may be useful for providers in examining medication management practices.
- Administrator Alert – 10/15/13: End-of-Life Care and the Use of Antipsychotic Medications. This outlines the use of antipsychotic medications for individuals receiving end-of-life care is not prohibited by Federal/State regulations. However, it is important that if these medications are being used – to care plan, and clearly work with Hospice the reason for use/goal

E. CMS has released two new F-tags: F523 and F524 – both of which address administrative responsibilities for having policies/procedures in place in the event of a facility closure.

F. Lastly – a reminder to help expedite the QIS survey process and Stage 1 Sample Selection to please assist surveyors by:

- Adequate work space with easy access to electrical outlets
- Unrestricted access to facility Electronic Health Records
- An alphabetical list of residents residing in your facility
- Prompt completion of the New Admission Form

****Without the Alphabetical Census List, along with the New Admission Form – surveyors cannot move forward – Remember – QIS surveys do not require providers to complete the CMS Roster Matrix****

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Keith Ramey, DHS, Office of Licensing & Regulatory Oversight, Nursing Facility Enforcement & Scheduling Manager presented survey enforcement information:

Enforcement

- CMS has implemented directive for Consistency in the Application of Enforcement Remedies for Nursing Homes.
- State agency continues to recommend enforcement remedies as appropriate to CMS.
- State agency no longer recommending specific dollar amounts for Federal Civil Money Penalties (CMPs) to CMS.
- CMS determining remedies and for CMPs, the dollar amount.
- Facilities are encouraged to be thoughtfully continuing to develop their Plan of Correction and determine Allegation of Compliance Dates. A daily CMP is imposed by CMS thru the date of compliance as determined from revisit survey.

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Federal Shutdown

- In process with resolution date unknown. State agency implementing CMS directives to perform only "essential" functions.
- CMS will issue recovery plan following resolution.

Oregon State Fire Marshal (OSFM)

- Recently had some workload shifts and reassignments. Dan Jones is continuing on a more limited basis with the assistance of Sean Condon, Heather Miller, and George Crosair.

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Cory Oace, DHS, Office of Licensing & Regulatory Oversight (OLRO), Nursing Facility Survey Manager presented information on OLRO office moves:

- OLRO's central office staff will relocate during 12/13 through 12/16/2013. Information regarding specific mailing address and phone contacts is forthcoming via an Administrator Alert.

Salem CCMU office will close and surveyor staff will relocate in conjunction with the December 2013 OLRO central office move. The statewide complaint intake fax and phone lines remain unchanged. The main phone number for the Salem CCMU office, (503) 373-0200, will continue to be a primary contact number.