



CMS Issues Updated Guidance for Nursing Homes

By Janet K. Feldkamp and Alan E. Schabes

Introduction

QSO-22-19-NH was issued on June 29, 2022, by the Centers for Medicare and Medicaid Services (CMS). This released Updated Guidance for Nursing Home Resident Health and Safety (Updated Guidance) as part of the Phase 2 and 3 Requirements for Participation (ROP). Significant revisions to the ROPS were originally published in 2016 and have been implemented and updated in a multi-year phase-in process since that issuance. The Updated Guidance focuses on quality of care and life as part of an ongoing effort to complete the final two phases of the ROP revisions and to reinforce some of the Biden administration's efforts to protect seniors by improving quality and safety of nursing homes. The Updated Guidance announced the "Advanced Copy" issuance of Appendix PP of the State Operations Manual (SOM) for State Survey Agencies (SAs). The SA surveyors will begin utilizing this guidance on October 24, 2022. Providers are encouraged to review the updated guidance, utilize the training resources that are publicly available and incorporate revisions into applicable policies, procedures and processes. Due to the significant number of changes made by the Updated Guidance, selected areas are being discussed in this advisory. Reference the six-page QSO for additional resources and information.

Trauma-Informed Care (F699)

A Phase 3 requirement for trauma informed care requires assessing facility residents and implementing interventions based upon culturally-competent and *trauma-informed* services. Trauma-informed care¹

is an approach to delivering care that involves understanding wide-spread trauma, recognizing the signs and symptoms of trauma in residents, and responding to the effects of all types of trauma. Particularly in 2022, many facility residents are not only affected by their life traumas but also the isolation and effects of the COVID pandemic.

Psychosocial Outcome Severity Guide (F600)

The revised Psychosocial Outcome Severity Guide provides surveyors guidance in applying a "reasonable person" concept in determining the severity of psychosocial harm when the resident may not be able to voice or express such harm. The revisions include clarifying how to apply the reasonable person concept, clarifying examples under each severity level, and listing certain instances of abuse where the deficiency would be assigned to certain severity levels.² Other revisions in F600 Freedom from Abuse and Neglect include surveyor guidance on resident-to-resident altercation evaluation and a discussion regarding resident ability to consent to sexual activity. Six of the ten tags in the Abuse, Neglect and Exploitation section have had at least some revision with the updated guidance. As an important area for resident health and safety, this should be a focus area for facilities to review the guidance, update policies and practices and provide additional education to staff related to this important topic.

Infection Control (F880) & Infection Preventionist (F882)

Additional revisions have been added to F880 related to infection prevention. These

revisions direct the surveyors to review QAPI documentation related to actions and activities for infection control. Also, implementation of the Phase 3 requirement for a part-time Infection Preventionist (IP) with specialized training to effectively oversee the facility's infection prevention and control program. The IP cannot be an off-site consultant or work at a separate location. The focus for the IP must be on assessing, developing, implementing, monitoring and managing the infection control program.

Compliance and Ethics (F895)

Each facility's operating organization must have a compliance and ethics program that is reasonably designed, implemented, maintained and enforced, so that it is likely to be effective in preventing and detecting criminal, civil, and administrative violations and in promoting quality of care. For operating organizations with five or more facilities, the organization must have a mandatory annual training program. More than four pages of information, guidance and requirements on compliance and ethics programs have been added with this most recent update.

Complaint Processes and Facility Reported Incidents (FRIs) (SOM Chapter 5)

CMS revised the State Operations Manual (SOM) Chapter 5 which guides the SAs regarding process and timing of complaint investigations. The revisions are to ensure timely investigations of nursing home incidents and complaints. The SA must follow the guidance regarding review and

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triage the complaint allegations.³ A revised Exhibit 23 provides a grid with information related to complaint triage and investigation timing.

Mental Health and Substance Use Disorder (SUD)(F741)

CMS updated guidance related to meeting the unique health needs of residents with mental health needs and SUD. For residents with an assessed history of a mental disorder or SUD, the care plan must address the individualized needs the resident may have related to the mental disorder or the SUD. Facilities may use behavioral contracts as part of the individualized care plan to address behaviors which could endanger the resident, other residents, and staff, but the contract cannot conflict with resident rights or other requirements of participation.

Payroll Based Journal (PBJ) Clinical Staffing Data (F725)

CMS added guidance that uses PBJ staffing data to trigger deeper investigations of sufficient staffing and cite noncompliance with reporting requirements. CMS added examples of noncompliance related to adequate staffing. The use of the PBJ data ties facility submitted data to the concept of provision of sufficient staff.

Recommendations for Resident Rooms

There were no new regulations issued for resident room capacity. However, CMS is urging providers to consider making changes to their physical environment to limit rooms to a maximum of double occupancy. CMS also encourages facilities to explore ways to allow for single occupancy rooms. CMS explains the advantages to limiting rooms to double or single occupancy which include allowing for more resident privacy for daily activities, encouraging a homelike environment, and improving infection control and prevention.

Currently, CMS allows up to 4 residents to occupy a living space provided room allows a minimum of 80 square feet per resident for older facilities. However, various

states licensure regulations limit number of residents in each room.

Available On-Line Training

Providers have the opportunity to access online training in the Quality, Safety, and Education Portal (QSEP) and recording webinars and slide decks are available at <https://qsep.cms.gov>. This same training will be utilized to educate surveyors regarding the most recent changes.

Conclusion

CMS's revisions and updates for the ROPs in Appendix PP modified sixty-five of the F tags. These modifications ranged from minimal revisions to many pages of additional guidance, investigational protocols and enhanced expectations. Now is the time for providers to review the revised guidance and train staff regarding the expectations and requirements that will be utilized in the survey processes beginning October 24, 2022.

¹ This concept is adapted from SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach and more information can be found at <https://store.samhsa.gov/system/files/sma14-4884.pdf>.

² See <https://www.cms.gov/files/document/psychosocial-outcome-severity-guide.pdf>

³ See <https://www.cms.gov/files/document/som-chapter-5-complaint-procedures.pdf>

Further Information

Please reach out to Benesch Healthcare+ Practice Group for more information.



Janet K. Feldkamp

Partner
614.223.9328

jfeldkamp@beneschlaw.com



Alan E. Schabes

Partner
216.363.4589

aschabes@beneschlaw.com

With contributions from **Morgan McCracken**, a summer associate from Capital University Law School.

Additional Information

For more information, please contact a member of Benesch Healthcare+ Practice Group.

Frank Carsonie, *Chair*, at (614) 223-9361 or fcarsonie@beneschlaw.com

OTHER MEMBERS OF BENESCH HEALTHCARE+ PRACTICE GROUP

Harry M. Brown at (216) 363-4606 or hbrown@beneschlaw.com

Janet K. Feldkamp at (614) 223-9328 or jfeldkamp@beneschlaw.com

Daniel Meier at (201) 488-1013 or dmeier@beneschlaw.com

Daniel J. O'Brien at (216) 363-4691 or dobrien@beneschlaw.com

Alan E. Schabes at (216) 363-4589 or aschabes@beneschlaw.com

Mark J. Silberman at (312) 212-4952 or msilberman@beneschlaw.com

Martha J. Sweterlitsch at (614) 223-9367 or msweterlitsch@beneschlaw.com

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