NEWS & INSIGHTS

CMS Updates to Long-Term Care Surveyor Guidance

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Last November, the Centers for Medicare and Medicaid Services (CMS) issued a memo regarding updated guidance for nursing home surveyors, which addressed revisions to the State Operations Manual – Appendix PP, which is the interpretative guidance that surveyors use in determining compliance with the federal Requirements of Participation for long term care facilities. The CMS memo addressed revisions to the following areas: Admission, Transfer & Discharge; Chemical Restraints/Unnecessary Psychotropic Medication; Resident Assessment; Quality of Life and Quality of Care; Administration; Quality Assurance Performance Improvement (QAPI); Infection Prevention and Control, and other areas.

Then, this month, CMS issued a revised memo regarding additional updates to Appendix PP and the Long-Term Care Survey Process which included revised guidance and training for nursing home surveyors regarding nursing services and Payroll Based Journal.

Per the CMS memo announcing the changes, CMS noted that "[h]ealth and safety updates are regularly made to address emerging trends in deficiency citations nationwide" to ensure that its "guidance remains aligned with current standards of practice" while protecting the health and safety of residents.

The effective date for implementation of the new guidance, which was initially February 24, 2025, has been extended to **March 24, 2025**.

Some of the more significant changes are listed below:

Admissions, transfer, and discharge

CMS has clarified the guidance that prohibits admissions agreements from containing language requesting or requiring a third-party guarantee of payment. The CMS guidance provides that any language contained in an admission agreement that seeks to hold a third party personally responsible for paying the facility would violate the regulatory provisions. The guidance includes examples of non-compliant language, such as language that holds a third-party individual personally liable for breach of an obligation in the agreement (e.g., failing to apply for Medicaid in a timely and complete manner or allowing someone other than a signatory to the agreement to spend the resident's resources that would be used to pay the nursing home).

CMS also deleted F622-F626 and F660-F661 and reorganized the guidance under two new F-Tags: F627 (Inappropriate Transfers and Discharges) and F628 (Transfer and Discharge Process).

Nursing Services & Payroll Based Journal

CMS added guidance for investigations using the Payroll Based Journal (PBJ) Staffing Data Report, including the addition of instructions specific to staff interviews, observations, key elements of noncompliance and deficiency categorization. CMS also added guidance to assist surveyors in determining compliance with the Director of Nursing requirements as well as the requirements governing the submission of staffing data through the PBJ system.

Chemical restraints/unnecessary psychotropic medication

The regulation and guidance regarding unnecessary use of psychotropic medications under F758 was incorporated into F605 to streamline the survey process. CMS added guidance regarding documentation in the medical record to demonstrate that a resident or the resident representative was informed in advance of the risks and benefits of initiating or increasing a psychotropic medication, as well as treatment alternatives, and had the option to accept or decline the initiation or increase of the medication.

Accuracy/Coordination/Certification

CMS added instructions for investigating Minimum Data Set (MDS) assessment accuracy and determining whether noncompliance exists. CMS notes that if a facility is unable to provide documentation which supports the MDS coding of the new diagnosis in question, then noncompliance exists. Per CMS, "supporting documentation should include, but is not limited to, evaluation(s) of the resident's physical, behavioral, mental, psychosocial status, and comorbid conditions, ruling out physiological effects of a substance (e.g., medication or drugs) or other medical conditions, indications of distress, changes in functional status, resident complaints, behaviors, symptoms, and/or state Preadmission Screening and Resident Review (PASARR)." CMS also deleted F642 regarding Coordination/Certification of Assessment and relocated the regulatory provisions and guidance to F641.

COVID-19 Immunization

CMS incorporated the guidance from CMS Memo QSO-21-19-NH into Appendix PP related to the requirements for facilities to educate residents/resident representatives and staff regarding the benefits and potential side effects associated with the COVID-19 vaccine and offering the vaccine.

You can read the full CMS guidance here to see the entire list of changes. If you have any questions about any portion of this updated guidance and/or would like assistance in reviewing your admission agreements, policies and practices to ensure compliance with the updated guidance, please contact me.

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