

BQC - 90 - 006

Date: January 16, 1990

To: Wisconsin Hospitals

From: Larry Tainter, Director
Bureau of Quality Assurance

Subject: Admission of Individuals with HIV Infection or AIDS

This letter was recently sent to all Wisconsin nursing homes and AIDS service organizations and is also being sent to hospitals for your information and for the use of your discharge planners.

The Governor's HIV/AIDS Technical Advisory Committee has recently been dealing with the issue of the placement of individuals with AIDS/HIV infections in nursing homes. A number of members of the committee have reported on the difficulties they have encountered in attempting to find nursing home placements when needed. The purpose of this letter is to provide information on both the regulatory requirements in this area and on some resource materials that are available, and also to advise you that BQC staff are responsible for and will investigate complaints concerning refusals to admit individuals with AIDS to nursing homes.

Regulatory Requirements

Any facility that accepts federal funds is governed by Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination "solely by reason of...handicap." Section 504 prohibits discrimination based on the disabling effects of AIDS or related conditions. Also, under the new federal regulations for long term care facilities that are effective 10/1/90 new language has been added in CFR 483.75(d) that specifically requires compliance with other HSS regulations, including Section 504 of the Rehabilitation Act. Violations of this requirement will be treated in the same way as other violations of federal nursing home requirements, and also will be subject to the intermediate sanctions created in OBRA '87.

In addition to the federal requirements, there is state legislation pending (Assembly Bill 400) that specifically prohibits discrimination by health care providers toward individuals with HIV infection or AIDS, and establishes penalties for violations. The state nursing home licensing rules (HSS 132.51(2)(b)2) require all facilities to use universal precautions with regard to blood and certain body fluids. A copy of the Center for Disease Control update on universal precautions was sent to all nursing homes in November. These rules also require that facilities develop and implement written policies for control of communicable diseases (HSS 132.42(4)) and provide orientation and continuing education for staff so that the staff are prepared to care for residents admitted to the facility (HSS 132.44). While HSS 132.51(2) places limitations on admissions in regard to persons who require services which the facility does not provide or make available, this provision should not be interpreted as providing justification for refusing to admit an individual with AIDS whose care needs are similar to other residents in the nursing home.

Resources Available

A flyer on AIDS resources is attached. Also, the Bureau has produced a video on infection control issues that is available to nursing homes (details are in BQC memo 89-086), and there is an excellent video available from the American Health care Association called "Making It Work". This was produced by staff

of the Yorkshire Manor Nursing home in the Minneapolis-St. Paul area and describes their experience in preparing to care for residents with AIDS.

Complaints about refusals to admit individuals with HIV infections or AIDS should be referred to the Bureau of Quality Compliance district offices at the following numbers:

Eau Claire	(715) 836-4752
Green Bay	(414) 436-3074
Madison	(608) 246-3314
Milwaukee	(414) 227-5000

SW/jh 8420

cc: -Wisconsin Hospital Association
 -George F. MacKenzie