

DATE: June 1, 1995

BQC #95-022

TO: Nursing Homes

NH 13

Effective Date: 7/1/95

FROM: Judy Fryback, Director
Bureau of Quality Compliance

SUBJECT: **New Nursing Home Survey Protocol and Enforcement Regulations**

FEATURED TOPICS:

- **GLOSSARY OF TERMS**
- **NEW/CHANGED FORMS:**
 - **Roster/Sample Matrix- HCFA 802**
 - **Resident Census and Conditions of Residents-HCFA 672**
- **PLANS OF CORRECTION**
- **DATE CERTAIN**
- **QUALITY ASSESSMENT AND ASSURANCE REVIEW**

The implementation of the final survey, certification and enforcement regulations marks a time of great change for all of us!

To ease the transition, we will be sending out three more special memos, like this one, between now and mid-July that will highlight changes.

There will also be two ETN sessions; one June 28, and one July 26. In August, we will hold five training sessions: 8/21/95 in Green Bay; 8/22/95 in Eau Claire; 8/23/95 in Madison; and 8/24-25/95 in Milwaukee. These day-long sessions will include Bureau of Quality Compliance, Ombudsman, Nursing Home, and Health Care Financing Administration Region V 'faculty.'

The July 1, 1995 changes are deceptive. They appear to be incremental, but they are significant. **THIS IS NOT BUSINESS AS USUAL.**

- < The citing policy and decision making will change.
- < Plans of correction will change.
- < Appeals will change.

- < The survey process will change.
- < The guidelines and F-Tags will change.
- < The role of the Ombudsman will change.
- < The remedies will change.
- < The facility's quality assessment/assurance process will change.
- < Only the medication pass *won't* change!

Well, that's probably not the only thing that won't change. But it is best to approach this as if everything is new so as not to miss anything. The current regulations, guidelines, and enforcement options will be in effect for standard and/or complaint surveys begun before July 1, 1995. If the life safety code survey, revisit, or extended survey is begun after July 1, 1995, but the health survey was started before July 1, 1995, the current regulations will apply. The new guidelines, survey

process, and enforcement regulations will be applied for standard or complaint surveys begun on or after July 1, 1995, and will be in effect for revisits for findings from those surveys.

You may be aware that the Eau Claire region has been piloting the use of separate statements of deficiency (SODs) for state and federal citations. Separate SODs will become standard practice statewide on July 1, 1995. As of that date, the state and federal processes will become more similar, yet they will be different in significant ways. Separate statements of deficiency will help us keep these processes distinct.

We thank you for your cooperation in this time of change. Your written comments and suggestions on where clarification is needed will assist us in responding to your questions.

Glossary of Terms

The following definitions are highlighted from Chapter 7, of the State Operations Manual, Standards and Certification, 7001.

Abbreviated Standard Survey means a survey other than a standard survey that gathers information primarily through resident-centered techniques on facility compliance with the requirements for participation. An abbreviated standard survey may be premised on complaints received; a change of ownership, management, or director of nursing; or other indicators of specific concern.

Certification of Compliance means that the facility is at least in *substantial compliance* and is *eligible to participate* in Medicaid as a NF, or in Medicare as a SNF, or in both programs as a dually participating facility.

Certification of Noncompliance means that the facility is *not in substantial compliance* and is *not eligible to participate* in Medicaid as a NF, or in Medicare as a SNF, or in Medicare and Medicaid as a dually participating facility.

Date Certain (see p. 5 of this memo.)

Enforcement Action means the process of imposing one or more of the following remedies: termination of a provider agreement; denial of payment for new admissions; denial of payment for all residents; a temporary manager; civil money penalties; state monitoring; directed plans of correction; directed inservice training; transfer of residents; closure of a facility; or other HCFA-approved alternative State remedies.

Extended Survey means a survey that evaluates additional participation requirements *subsequent to finding substandard quality of care* during a standard survey.

Nursing Facility is a Medicaid-certified facility that is primarily engaged in providing to residents: nursing care and related services for residents who require medical or nursing care; rehabilitation services for the rehabilitation of injured, disabled, or sick individuals who because of their mental or physical condition require care and services (above the level of room and board) that is available to them only through these facilities, and is not primarily for the care and treatment of mental diseases.

Partial Extended Survey means a survey that evaluates additional participation requirements *subsequent to finding substandard quality of care during an abbreviated standard survey*.

Plans of Correction - (see pp. 4-5 of this memo.)

Post-Survey Revisit (Follow-up) is an on-site visit intended to verify correction of deficiencies cited on a prior survey.

Skilled Nursing Facility is a Medicare-certified facility primarily engaged in providing to residents: skilled nursing care and related services for residents who require medical or nursing care or rehabilitation services for the rehabilitation of injured, disabled, or sick persons and is not primarily for the care and treatment of mental diseases.

Standard Survey means a periodic resident-centered, outcome-oriented inspection, that relies on a case-mix stratified sample of residents to gather information about the facility's compliance with participation requirements. The standard survey assesses compliance with resident's rights and quality of life requirements; accuracy of residents' comprehensive assessments and the adequacy of care plans, the quality of services furnished as measured by indicators of medical, nursing, rehabilitative care, drug therapy, dietary and nutrition services, activities, social participation, sanitation and infection control; and the effectiveness of the physical environment to empower residents, accommodate resident needs and maintain resident safety.

State Survey Agency (SA) means the entity responsible for conducting most surveys to certify compliance with HCFA participation requirements. In Wisconsin, the SA is the Bureau of Quality Compliance.

State Medicaid Agency (SMA) means the entity in the State responsible for administering the Medicaid program. In Wisconsin, the SMA is the Bureau of Health Care Financing.

Substandard Quality of Care means one or more deficiencies related to participation requirements under 483.13, *Resident Behavior and Facility Practice*; 483.15, *Quality of Life*; or 483.25, *Quality of Care*, that constitute either immediate jeopardy to resident health or safety; a pattern of or widespread actual harm that is not immediate jeopardy; or a widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm.

Substantial Compliance means a level of compliance with the requirements of participation such that any identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm. Substantial compliance constitutes *compliance with participation requirements*.

New/Changed Forms

Note: A sample of the following forms and instructions are attached to this bulletin.

ROSTER/SAMPLE MATRIX - HCFA-802

The Roster/Sample Matrix - HCFA-802 is a new form. The facility will be expected to provide this information to the survey team coordinator by the end of the Initial Tour, approximately 2 hours after surveyors arrive at the facility. If this information cannot be provided by the end of the tour, the form will need to be completed during the Initial Tour by facility staff who are accompanying the surveyors. The required information includes listing all residents including residents on bedhold and checking which categories apply to each resident. The information can be provided in some other format (e.g., computer generated list). This is an important source of resident information that is crucial for the survey team to have for the sample selection process. The facility may make modifications for accuracy or add additional information within 24

hours.

As the instructions indicate, the facility completes the following information: **resident name, resident room number, and columns 9-29 resident characteristics.**

All remaining columns are completed by the survey team: surveyor assigned, type of review, for surveyor use only - Columns 1-8 plus column 30-Special Needs.

RESIDENT CENSUS AND CONDITIONS OF RESIDENTS - HCFA-672

The HCFA-672 is being revised and is to be completed and returned to the survey coordinator within 24 hours of the Entrance Conference. Changes include re-formatting some of the questions to make the data more valid and consistent. Other changes include the ADL Section - levels of assistance with ADLs has decreased from five levels to three levels; in several sections there are additional questions that ask whether a condition was present on admission; under section C- Mental Status, there is now only one question on mental retardation, other questions are more relative to the nursing home population; Section E-Special Care, contains questions on several new care categories. And at Section F-Medications, the psychoactive medications have been divided to give a clearer picture of the types of drugs being used, and a question has been added relating to pain management.

A copy of the form and the instructions is attached.

Review of Criteria for Developing Written Plans of Correction

There are new requirements for nursing facilities in preparing acceptable plans of correction when federal deficiencies are issued. Attention to these guidelines will prevent unintentional submission of an unacceptable plan of correction that could delay compliance with cited deficiencies, increase time to rewrite and review the plan of correction, and jeopardize certification status.

Skilled nursing facility providers are required to submit an acceptable plan of correction (PoC) for each deficiency except when a facility has isolated deficiencies that constitute no actual harm with potential for no more than minimal harm. When a federal deficiency is issued by the State Survey Agency and/or the Health Care Financing Administration, the PoC is the required written response to the statement of deficiency. According to 7304 of the State Operations Manual, an **acceptable plan of correction** must meet the following criteria:

- < Identify how corrective action will be accomplished for those residents found to have been affected by the deficient practice;
- < Identify how the facility will identify other residents having the potential to be affected by the same deficient practice;
- < Identify what measures will be put into place or systemic changes made to ensure that the deficient practice will not recur; and
- < Identify what quality assurance program the facility will put into place to monitor its corrective actions to ensure

that the deficient practice is being corrected and will not recur.

A PoC must be returned to the Bureau of Quality Compliance, or in the case of a federal monitoring survey, to the Health Care Financing Administration, the Chicago Regional Office, within 10 days from the date the provider received its HCFA-2567. If an acceptable PoC is not received within 10 days from the date the provider receives the HCFA-2567, the Bureau of Quality Compliance will notify the provider that it is recommending to the HCFA Regional Office and/or the State Medicaid Agency (SMA) that it will impose remedies as soon as the notice requirements are met (*Section 7305 of the SOM*).

Facilities that do not submit an acceptable PoC will not necessarily get any additional time to submit an acceptable PoC.

Date Certain

Date certain is a new concept and important because, for most providers, it is the date when remedies might be activated. The 'date certain' is the date by which the provider is expected to have the deficiencies corrected. Based on the deficiencies cited during the survey, the Bureau of Quality Compliance will determine the date certain. This is the date on which remedies will be imposed if the provider has not achieved substantial compliance. The provider will be notified of the date certain when the HCFA-2567 is issued. The provider is expected to correct deficiencies immediately, or as soon as possible, but no later than the date certain. If substantial compliance is not achieved by this date, the Bureau of Quality Compliance will forward its recommendation to HCFA, or to the Bureau of Health Care Financing in the case of a Medicaid-only facility, to impose remedies. The Bureau of Quality Compliance specifies the date certain by looking at what is in the best interest of the residents in the facility, given the nature of the deficiency.

Quality Assessment and Assurance Review

As a new survey task during the standard survey, surveyors will conduct a review of the facility's quality assessment and assurance structure. This was previously reviewed only if an extended survey was done. Surveyors will now determine if a Quality Assessment and Assurance (QAA) Committee exists and meets in accordance with the regulatory requirements of 483.75(o), and that the committee has a method, on a routine basis, to identify, respond to, and evaluate its response to issues that require quality assessment and assurance activity.

Facilities should review the requirements at 483.75(o) and evaluate their quality assessment and assurance program. Does the committee have a process or protocol for identifying quality deficiencies? Is the process or protocol followed? Is it effective? Does the committee have the required members? This may mean a new role for your Medical Director. Does the committee meet at least quarterly? Does the committee have a formal method to respond to identified survey deficiencies and evaluate the ongoing effectiveness of that correction plan?

Surveyors will review the quality assessment and assurance requirements by interviewing QAA committee members, administrative staff and other facility staff to determine if a planned, comprehensive and systematic process is in place in the facility. Are effective mechanisms in place that adequately scrutinize the safety, effectiveness and appropriateness of services rendered? Do committee members seek comments and suggestions from residents and their families? Are both quality of care and quality of life issues being addressed? Does the plan of correction address the monitoring that is necessary so that the deficiencies are corrected and do not recur? Please note that surveyors will not review QAA committee minutes to determine if the requirements are met.

For all facilities, surveyors will review whether QAA committee members can be identified; verify that meetings are held at least quarterly; facility staff can describe the process and show that there are policies and procedures in place to address issues; and determine if all staff have a familiarity with the QAA methodology. This review takes place during phase 2 of the sampling part of the survey.

For those facilities where actual or probable quality problems have been identified during the survey process, surveyors will go into more depth in the survey process. They will need to ascertain whether the facility can describe or document a plan of action; whether staff are aware of implementation plans; and whether staff are aware of the effectiveness and evaluation of the plan of action.

The Quality Assessment and Assurance process is a vital system that should be an integral part of the entire facility's operations so that problems do not go unidentified or uncorrected.

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cc:-BQC Staff

- Office of Legal Counsel
- Ann Haney, DOH Admin.
- Kevin Piper, BHCF Dir.
- HCFA, Region V, M. Dykstra
- Illinois State Agency
- Ohio State Agency
- Michigan State Agency
- Indiana State Agency
- Minnesota State Agency
- WI Coalition for Advocacy
- Serv. Employees Inter. Union
- WI Counties Assn.

- WI Health Info. Mgmt. Assn.
- WI Assn. of Homes & Serv/Aging
- St. Med. Society (Comm. Aging...)
- WI Health Care Association
- WI Assn. of Medical Directors
- Admin., Division of Care and Treatment Facilities
- WI Assn. of Hospital SW and Discharge Planners
- Bd. on Aging & Long Term Care
- Bur. of Design Prof., DRL
- LTC BQC Memo Subscribers
- Mark Bunge, BPH
- DD Board