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DQA Memo 10-035
DLTC Information Memo 2010-06

To: Area Administrators/Human Services Area Coordinators
Area Agencies on Aging
Community Alliance of Providers of Wisconsin
County Aging Units/Directors
County COP Coordinators
County Department of Community Program Directors
County Departments of Developmental Disabilities Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
County Waiver Coordinators
County DD Coordinators
Independent Living Centers
Personal Care Providers
Residential Services Association of Wisconsin
Tribal Chairpersons
Wisconsin County Human Services Association
Wisconsin Personal Services Association

PCP 10

From: Otis Woods, Administrator
Division of Quality Assurance

Jason Helgeson, Administrator
Division of Health Care Access and Accountability

Susan Crowley, Administrator
Division of Long Term Care

**Personal Care Provider Program Update
Complaint Investigations**

The purpose of this memo is to provide information about complaint investigations conducted in Medicaid certified personal care providers by the Department of Health Services.

Background

2009 Act 28, the 2009-11 biennial budget bill, expanded the types of entities that can be certified by the Department as Medicaid personal care providers. Freestanding personal care agencies, in addition to counties, Tribes, home health agencies and Independent Living Centers (ILC), can be certified directly as Medicaid providers. The Department established emergency rules, Wis. Admin. Code ss. DHS 105.17 and DHS 106.06, effective December 11, 2009, and permanent rules, Wis. Admin. Code ss. DHS 105.17 and DHS 106.06, effective September 1, 2010, to

establish the criteria and procedures for a freestanding personal care agency to become a Medicaid provider. The rules were also updated to strengthen the protection of clients' health and rights and to incorporate current standards of practice for all classes of personal care providers. For additional background information, please refer to DLTC Info Memo Series 2010-01. A copy of the permanent rule is available at the following link:

<http://www.legis.state.wi.us/rsb/code/dhs/dhs101.html>

Complaint Investigation

To ensure that complaints filed with the Department of Health Services are investigated and concerns regarding care and treatment are addressed, the Division of Quality Assurance (DQA) will investigate all complaints regarding entities' practices over which the Department has jurisdiction. All complaint investigations are unannounced.

Complaint investigations will be conducted by DQA nursing consultant surveyors. Upon entering the agency, the surveyor will introduce him or herself and ask to meet with the administrator. DQA staff has developed a Survey Guide which provides information about the complaint investigation process and the regulations. The Survey Guide is available at: http://www.dhs.wisconsin.gov/rl_DSL/PCAs/PCAprovds.htm

The surveyor will maintain ongoing communication with agency staff throughout the investigation and will meet with agency staff to share findings. We encourage agency staff to provide any documentation or information to the surveyor that may clarify or modify the surveyor's findings.

When deficiencies or violations of Wisconsin regulations are discovered, the findings are documented on the Statement of Deficiencies form. The Statement of Deficiencies is served on site or sent to the provider by certified mail within 10 days following the conclusion of the investigation. The personal care provider will be requested to submit a plan to correct the violation within 10 days following receipt of the Statement of Deficiency. Failure to correct a violation by the date specified in the plan of correction may result in regulatory enforcement action unless an extension is granted via request. Additional information regarding Statements of Deficiencies, how to complete a plan of correction and the time period for correction can be found in the Survey Guide at the above link.

DQA will also investigate allegations of caregiver misconduct made against certified personal care providers. Misconduct reports are screened by DQA's Office of Caregiver Quality (OCQ) to determine whether further investigation is warranted. Investigation screening decisions are made on a case-by-case basis. OCQ notifies the accused person, entity, staffing agency (if applicable) and complainant by letter whether an investigation will be conducted by OCQ. Both state investigators and contracted private investigators complete caregiver misconduct investigations. Not all reported incidents are investigated by DQA. However, DQA does track and monitor all incident reports. When DQA observes a pattern of reported incidents involving a caregiver, an investigation may be opened at a later date. In order for the Department to substantiate a finding of misconduct against a caregiver, the incident must meet the definition of caregiver abuse, neglect or misappropriation. After completing a caregiver misconduct investigation, DQA determines whether there is sufficient evidence to substantiate the complaint. An incident may violate the work rules or procedures of a facility but at the same time, not meet the definitions or the evidentiary standards of DHS ch. 13. Therefore, it is possible an employer

may appropriately discipline or terminate a caregiver for a particular incident, but DQA may determine the incident does not constitute caregiver misconduct.

Medicaid Provider Report F-00309

DHS 105.17 (1f) requires counties, ILCs and tribes or bands to provide identifying information about the personal care provider and those agencies and individuals that provide Medicaid personal care services through a contract with the provider. This data base will enable the Department to organize, store and retrieve information about personal care services provided in Wisconsin for various reporting and planning activities. This requirement does not affect freestanding personal care providers or home health agencies because the Department already collects this information through the approval, licensure and annual report processes.

Counties, ILCs and tribes or bands certified as Medicaid personal care providers are required to provide the identifying information on the Medicaid Provider Report F-00309. The provider is required to return the completed form to the Bureau of Technology, Licensing and Education, Division of Quality Assurance, P.O. Box 2969, Madison, Wisconsin 53701-2969 within 15 days upon receipt of this memorandum. The Medicaid Provider Report F-00309 form and instructions are available online at: <http://www.dhs.wisconsin.gov/forms/f0/f00309>

Questions – Contacts

If you have questions about the information in this memorandum or would like additional information about personal care services, please contact the individuals listed in the Department of Health Services website at http://www.dhs.wisconsin.gov/rl_DSL/PCAs/PCAintro.htm