

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: WISCONSIN

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for Investigations of Complaints and Monitoring

The State has in effect the following process for investigating complaints of violations of requirements by nursing facilities and monitors onsite on a regular, as needed basis, a nursing facility's compliance with the requirements of subsection (b), (c), and (d) for the following reasons:

- (i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;
- (ii) the facility was previously found not to be in compliance with such requirements and has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or
- (iii) the State has reason to question the compliance of the facility with such requirements.

All requirements are met as verified by attached documentation.

-BQC procedure 5035 on scheduling and processing long term care complaints.

-Forms that the facility is required to complete DOH 2084 and DOH 2086.

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Bureau of Quality Compliance

Subject: Scheduling and Processing Long Term Care Complaints

The Bureau of Quality Compliance (BQC) staff designated as members of the long term care investigative team shall accept all complaints over which they have authority. The investigative team shall minimally consist of a nurse surveyor, social worker surveyor and a support person. A Qualified Mental Retardation Professional (QMRP) shall be designated as a member of the investigative team or as a backup team member. An additional support person will be designated as a backup team member.

In the absence of the designated investigative team members, BQC staff will be required to take information from a complainant. The complainant should be told a member of the investigative team may be contacting them if additional information is needed.

Complaints must contain sufficient information to warrant investigation. Incidents which occurred more than one calendar year prior to receipt of the information will be reviewed by the supervisor on a case-by-case basis to determine if the complaint will be investigated. An investigative team member shall refer a caller to a more appropriate person in BQC if the complaint is out of the investigative team member's provider type or area of expertise.

Complaints outside the jurisdiction of BQC will be referred to the appropriate regulatory agency for investigation. If the complaint is received in writing and is not anonymous, the complainant will be advised of the referral.

The Long Term Care Complaint form, DOH-2018A, and the Health Facility Complaint Investigation Summary, DOH-2018B, will be used by the investigative team members.

Investigative Teams will also investigate allegations of abuse or misappropriation of property by aides employed by health care providers. While conducting any survey and a situation of either abuse or misappropriation of property by an aide is found, contact your supervisor immediately. The investigative team will be scheduled to complete the investigation of alleged abuse or misappropriation by an aide.

IT SHOULD BE NOTED THIS PROCEDURE MAY BE USED IN CONJUNCTION WITH MANUAL CODE 5031, INVESTIGATION OF ALLEGED ABUSE OR MISAPPROPRIATION OF PROPERTY BY AIDES EMPLOYED BY WISCONSIN HEALTH CARE PROVIDERS.

INVESTIGATIVE

- TEAM (IT)
- 1a. Accept oral or written complaint utilizing the Long Term Care Complaint form, DOH-2018A.
 - 1b. Complete the Long Term Care Complaint form, DOH-2018A, as the information is provided by the complainant.

Special consideration should be given to the areas of the complaint form listed below:

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- 1) Check the appropriate "Subject Areas" using Long Term Care Subject Areas, Appendix A, as a guide.
- 2) Substitute the name of persons involved in the complaint with an alpha code when writing the "Summary of Incidents" section of the complaint form. The alpha code is established by listing the name of the person involved on the complaint form in the area entitled "Identification Codes for Substitute Names."

NOTE: If additional space is needed to complete the summary of incidents, continue on a plain sheet of paper.

- 3) Source of Complaint
 - a) Self-Report (item 2) means the provider is reporting an incident at their facility.
 - b) The Death Reporting Codes - Item 12 (Death by inappropriate use of Restraints), item 13 (Death by inappropriate use of Psychotropic Medications) and item 14 (Death by Suicide) - take precedence over all other sources of complaints. These codes should be used when the nursing home or treatment facility reports a death which resulted from these causes.
 - c) "Other" should only be used when the complainant does not fit into any other category.

2. Direct immediately to responsible supervisor or designated backup any complaint which indicates a possibility or probability of immediate and serious threat to a resident's health and/or safety.

Immediate and serious threat is defined as a crisis situation in which the health and/or safety of residents is at risk. Generally, it is a deficient practice which indicates the operator's inability to furnish safe care and services, although it may not have resulted in actual harm. The threat of probable harm is also real and important and could result in potentially severe, temporary or permanent injury, disability, or death. Therefore, the threatening situation must be perceived as something which is occurring or is likely to occur in the very near future. See State Operations Manual (SOM) Appendix Q for additional information.

- SUPERVISOR 3. Review the complaint information for an immediate and serious threat and schedule an investigation to be completed within 2 working days of receipt of the complaint, if necessary. See SOM Appendix Q for additional information.

- IT 4a. Contact complainant, if complaint received does not contain adequate information or substance to investigate.

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If a complainant refuses to or can not provide additional information inform the complainant that an investigation will not be conducted.

- 4b. Refer complainants, outside BQC's jurisdiction, to the appropriate regulatory agency for investigation. For those complaints received in writing which fall outside BQC's jurisdiction refer the matter to the appropriate agency utilizing Manual Code 5101.
5. Forward daily all complaints received to supervisor for review.
- SUPERVISOR 6a. Review complaints to determine if an investigation will be conducted.
- 6b. Complaints received in which the incident occurred more than one calendar year prior to receipt of the complaint will be investigated if the alleged incident has specific information regarding the incident, constitutes a serious situation or could have an effect on the current operation of the facility. Each complaint will be reviewed on a case-by-case basis to determine if an investigation will be conducted.
7. Draft the appropriate letter to the complainant if the complaint is not to be investigated.
- a. Draft letter #LTC001.(no investigation) advising the complainant that the complaint will not be investigated;
- or
- Draft letter #LTC002 (request for additional information) advising the complainant an investigation will not be completed if additional information is not provided within 10 working days.
- b. Send letter to complainant and file copy of letter in tickler file.
- c. Return to step 6 if additional information is received.
- d. If additional information is not provided within allotted time, discard any notes on the initial information received from the complainant and send copy of BQC's letter (along with any other written material received, if applicable) to the File Center.
- Note: File Center will file the letter in the provider-specific chronological file used for miscellaneous correspondence.
8. Establish completion date, if the complaint is to be investigated, and document the date on the Long Term Care Complaint form, DOH-2018A.

Note: guidelines for scheduling investigations are listed below. Provider's compliance history should be taken into account when scheduling the

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investigation. Discretion may be used to extend timeframes in unusual circumstances.

- 9a. Schedule an investigation to be completed within 2 working days of receipt of any complaint which indicates that an immediate and serious threat to patient health and/or safety may exist.
- 9b. Schedule an investigation to be completed within 14 calendar days of receipt of a report from a nursing home (as defined in 50.04(2)(t) Wis. Stats.) or a treatment facility (as defined in 51.64 Wis. Stats.) of all deaths which meet either of the following criteria:
 - 1) There is reasonable cause to believe that death was related to the use of "physical restraint" or "psychotropic medication;" or
 - 2) There is reasonable cause to believe that the death was a suicide:

If the death report was not received from a coroner, the appropriate county coroner must be notified.

Note: Cite WI Stats 50.04(2t) if the facility did not properly notify BQC of deaths.

- 9c. Schedule an investigation to be completed within 60 calendar days of receipt of the complaint if the information contained in the complaint does not indicate a immediate and serious threat but does provide a substantive indication that a code violation may exist.
- 9d. Schedule an investigation to be completed within 6 months for those complaints that have little or no serious implications of threat to residents' health, safety or welfare.
- 9e. If a complaint is received alleging possible code violations in which a previous Statement of Deficiencies (SOD), HCFA-2567, has been issued, and the completion date has not yet past, the supervisor will determine if an onsite investigation will be conducted.

Timeframes for scheduling may be altered from the criteria established under this section for complaints received while a facility is under adverse action proceedings or for other unique situations. Exceptions must be documented by the supervisor in the "special instruction" section of the Long Term Care Complaint form, DOH-2018A.

- 10. Route complaint to IT support person.
- 11. Enter initial complaint information on Facility Licensing/Certification Information System (FL/CIS).

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12. Document the complaint number generated by FL/CIS on the complaint form, DOH-2018A.
- 13a. Initiate acknowledgement letter #LTC003 to the complainant for supervisor's signature. This will not be possible in the case of anonymous complaints.
- 13b. Document the date the letter was sent on the complaint form in the box marked "Regional Processing Checklist."
14. Forward the original complaint to the investigative surveyor. Retain a copy of the complaint for the file.
- SUPERVISOR 15. Monitor bimonthly FL/CIS complaint status reports to assure that complaints are investigated by due dates.
16. Review status of the investigation with IT surveyors to assure that complaints are investigated by assigned date.
17. Designate a revised completion date, if necessary. Advise IT support staff of revised completion date.
- IT SUPPORT PERSON 18. Enter the revised completion date on FL/CIS.
- IT 19. Conduct an unannounced complaint investigation prior to the established due date.
20. The complaint investigation includes specific survey tasks and forms relating to the issues identified by the complainant.
21. Select a sample, if appropriate. The size requirement should be one half the sample size used during the standard survey. The sample findings dictate the following action:
- a. No problems found - conclude investigation
 - b. Problems identified with severity or frequency - cite based on severity or frequency, conclude investigation.
 - c. Problems found but unable to determine whether there is severity or frequency - increase sample size to determine either compliance or cite based on severity or frequency.
 - d. Certified SNF or NF

Level A requirement(s) and/or immediate and serious threat identified out of compliance contact your supervisor immediately.

e. **Certified Intermediate Care Facilities for the Mentally Retarded (ICF/MR)**

Condition of Participation found out of compliance or a immediate and serious threat found contact your supervisor immediately.

SUPERVISOR 22. Advise IT of steps to take when an immediate and serious threat or Level A requirement(s) are found out of compliance using the Survey Procedures for Long Term Care Facilities (page 32) as a guide.

IT 23. Complete complaint investigation as directed by supervisor.

24a. Complete the Health Facility Complaint Investigation Summary form, DOH-2018B, upon completion of the investigation.

NOTE: If a complaint is received alleging possible code violations in which a previous Statement of Deficiencies (SOD), HCFA-2567, has been issued, and the completion date has not yet past, complete the Health Facility Complaint Investigation Summary form using the following: Indicate in the SOD # box "none", list the subject area, indicate code #1 in the investigation results and complete the narrative section. In the narrative section explain that the situation had been cited at the previous survey (specify which survey), indicate the completion date of the existing SOD, HCFA-2567, and reference the SOD# and the applicable federal and/or state code.

24b. Indicate the serial number of any Statement of Deficiencies (SOD), HCFA-2567, issued in the appropriate box.

EXCEPTION: Staff who are not currently using MEASURES must document each SOD, HCFA-2567, number in the column labeled "List Cited State Code and/or Federal Tag #" if more than one SOD, HCFA-2567, is issued.

24c. Check additional subject area(s) on the front of the Long Term Care Complaint form, if applicable.

24d. For each investigation include in the "Summary of Investigation - Statement of Findings" (narrative) section:

- 1) the number of investigators;
- 2) discipline of investigators;
- 3) date of contact with complainant (if appropriate);
- 4) date of onsite visit; and

- 5) any special circumstances which were part of the investigation (i.e., weekend investigation).
- 24e. Identify whether the complaint under each subject area identified was substantiated or unsubstantiated using the code on the top of the form.
- 1) Substantiated means one or more of the allegations reported were verified and deficiencies were cited; or one or more of the allegations reported occurred and was verified; however, BQC lacked jurisdiction, scope and frequency were not present or no applicable code exists therefore no deficiencies were cited.
 - 2) Unsubstantiated means that none of the allegations reported were verified, but deficiencies were observed and cited in other areas that were not related to the original allegations; or none of the allegations were verified and no deficiencies were cited.
- 24f. Identify, if substantiated, the federal tag number and/or the state code violation cited for each subject area identified on the front of the Long Term Care Complaint form.
- 24g. For each subject area identified on the front of the Long Term Care Complaint form indicate the following in the narrative
- 1) the sample size;
 - 2) the survey tasks conducted;
 - 3) The interviews conducted; and
 - 4) The results of the investigation.

Take care to use the alpha codes established on the Long Term Care Complaint form, DOH-2018A, when reference to the resident, RNs, aides and others involved in the allegations is made.

Note: If additional space is needed to complete the narrative section, a new form should be used.

- 24h. Identify and reference in the narrative all survey documents used during the investigation which will be filed with another survey packet. For example, a complaint was investigated concurrently with an annual survey; some of the survey documents relate to both the annual survey and the complaint investigation; the complaint investigation documents will be filed with the annual survey. All survey documents which related to both surveys, and filed with the annual survey, need to be identified and referenced in the narrative of the complaint investigation summary.

- 24i. Indicate in the box provided if this was a complaint only survey. If the complaint investigation was conducted concurrently with another survey type, document the type of survey conducted; for example, verification visit, annual survey, etc.
- 24j. Reference in the box provided on the Health Facility Complaint Investigation Summary, DOH-2018B, any Statement of Deficiencies (SOD), HCFA-2567, issued to the provider which were unrelated to the complainant's allegations or those issued as a result of a concurrent survey.
25. Complete and serve any SOD, HCFA-2567, (in accordance with Manual Code 2520) and complete any other forms which are related to the investigation.
26. Recommend adverse action, if necessary, based on the complaint findings using Manual Code 4201 or SOM Sections 3010 (Termination Procedures - Immediate and Serious Threat to Patient Health and Safety) and 3012 (Termination Procedures...).
27. Draft letter to complainant for supervisor's signature summarizing the investigation.
- a. Use response letter #LTC004 if an SOD, HCFA-2567, was issued which related to the complaint.
 - b. Use response letter #LTC005 if no SOD, HCFA-2567, was issued or an SOD, HCFA-2567, was issued but did not relate to the original complaint.
 - c. Use response letter #LTC006 if the complaint investigation was a result of a self report and no SOD, HCFA-2567, was issued.
28. Document on the second side of the original complaint form that the complainant can not be contacted and why, if applicable.
29. Compile the complaint packet and check the complaint form to indicate that each document is attached and in the following order:
- a. Original complaint form, DOH-2018A.
 - b. Health Facility Complaint Investigation Summary form, DOH-2018B
 - c. Survey Face Sheet
 - d. All federal survey documents used during the investigation
 - e. SOD, HCFA-2567, if applicable.
Indicate on the Complaint form whether a State Class A, B or C violation was issued and whether or not termination action was initiated.
 - f. HCFA-670 form
 - g. Off site review
 - h. Incoming complaint letter, if appropriate

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- i. Copy of Acknowledgement Letter
 - j. Response letter
 - k. If a referral to another regulatory agency is recommended, include a short written explanation and appropriate documentation (including a copy of the incoming complaint letter, a copy of complaint form and a copy of the investigation summary) addressed to the Chief, Facilities Regulations Section
30. Complete the appropriate sections of the Survey Team Composition and Workload Report, HCFA-670, form.
31. Forward the complete packet to investigative team support person within 10 working days of completing the investigation.
- IT SUPPORT PERSON 32. Within 5 working days of receipt of completed packet:
- a. Review packet for completeness.
 - b. Type appropriate response letter to complainant.
 - c. Enter all investigative findings into FL/CIS per data entry procedures.
- 33a. Proceed to step 36 if no SOD, HCFA-2567, was issued.
- 33b. Hold the packet for receipt of the facility's plans of correction.
34. Receive the plans of correction and forward the plans of correction along with the rest of the packet to surveyor for review.
- IT 35. Review plans of correction according to SOM 2728 and forward the plans of correction along with the rest of the packet to the appropriate supervisor
- SUPERVISOR 36. Review completed complaint investigation packets, including plans of correction, within 5 working days of receipt for completeness, accuracy and timeliness.
37. Review and sign response letter to complainant.
38. Draft form letter 329 (approving the plans of correction).
39. Identify any areas which would require BQC follow-up; i.e., verification visits, etc. Assign the follow-up activity to appropriate staff.
40. Review, approve and sign the Long Term Care Complaint form, DOH-2018A.
41. Complete the appropriate sections of the Survey Team Composition and Workload Report, HCFA-670, form.

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42. Forward complete complaint packet to IT support person
- IT SUPPORT PERSON 43. Within 5 working days of receipt of packet:
- a. Type form letter 329. Do not include a date on the letter.
 - b. Send response letter to complainant.
 - c. Complete Regional processing checklist.
44. Forward complete complaint packet to Facilities Regulation Section (FRS) Program Assistant (PA).
- FRS PA 45. Within 10 working days of receipt of complaint packet.
- a. Review complaint packet for completeness.

If the packet is incomplete, return to appropriate supervisor with a short note explaining what is missing.
 - b. Forward any recommendations for referrals to the Chief, FRS
 - c. Prepare Medicare/Medicaid Certification and Transmittal (C&T) form, HCFA-1539, in accordance with Manual Code 6551.
 - d. Type the date on form letter 329.
 - e. If adverse action is recommended, complete appropriate documents in accordance with Manual Code 4201.
 - f. Complete HCFA-562 form according to the instructions on the reverse side of form.
 - e. Forward C&T and 329/150 letter to Chief, FRS, for signature.
- CHIEF, FRS 46. Review and sign C&T and 329 letter and returns to FRS PA.
- FRS PA 47. Complete clerical time reporting on HCFA-670 form, include enough time for data entry, and total all time reporting on this form.
48. Forward original completed packet in the following order to FRS Program Assistant for federal data entry:
- a. MC/MA Complaint form, HCFA-562
 - b. HCFA-670 form
 - c. Long Term Care Complaint form, DOH-2018A
 - d. Health Facility Complaint Investigation Summary, DOH-2018B
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- e. Remainder of the packet
- FRS PA (DATA ENTRY) 49. Enter information into federal OSCAR/ODIE per data entry procedures within 14 calendar days of receipt.
50. Return packet to FRS PA.
- FRS PA 51. Forward appropriate copies of completed packet to HCFA Regional Office in accordance with OSCAR/ODIE data entry procedure and SOM Exhibit 63. Packet should include:
- a. C&T, HCFA-1539
 - b. Copies of the SOD, HCFA-2567
 - c. Copies of federal survey documents
 - d. HCFA-670 form
 - e. MC/MA Complaint form, HCFA-562
 - f. Copy of the Long Term Care Complaint form, DOH-2018A
 - g. Copy of the Health Facility Complaint Investigation Summary, DOH-2018B
 - h. Applicable federal adverse action forms
52. Forward original completed packet to Central File.
- CENTRAL FILE 53. File all complaint investigative material as a packet in the confidential complaint file.
54. File completed C&T and other appropriate federal forms in licensing file.
55. File original SOD, HCFA-2567, in "B" file.

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