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DQA Memo 11-021

To: Facilities for the Developmentally Disabled
Hospices
Nursing Homes

FDD 08
HSPCE 08
NH 14

From: Otis L. Woods, Administrator
Division of Quality Assurance

CMS S & C Memo 11-30 Reporting Reasonable Suspicion of a Crime in a Long-Term Care Facility (LTC): Section 1150 B of the Social Security Act

The Centers for Medicare and Medicaid Services (CMS) Survey and Certification (S&C) Memo 11-30 at http://www.cms.gov/Surveycertificationgeninfo/downloads/SCLetter11_30.pdf, informs state survey agencies of the new section 1150 B of the Act, which was established by section 6703 (b) (3) of the Affordable Care Act and is entitled “Reporting to Law Enforcement of Crimes Occurring in Federally Funded Long-Term Care Facilities.” **The revised 1-20-12 document includes updated versions of the Questions and Answers and Appendix One documents.**

Section 6703(b)(3) of the Affordable Care Act, in part, amends Title XI of the Act by adding a new section 1150B. Section 1150B requires LTC facilities that receive at least \$10,000 in Federal funds under the Act during the preceding year to annually notify each covered individual of their obligation to report to the Secretary (now assigned to the SA) and at least one local law enforcement entity “any reasonable suspicion of a crime,” as defined by local law, committed against an individual who is a resident of, or is receiving care from, the facility. A “covered individual” is defined at section 1150B(a)(3) of the Act as each individual who is an owner, operator, employee, manager, agent, or contractor of such LTC facility.

Please see S & C Memo 11-30 for detailed information and the questions and answers document. DQA is also working with the Department of Justice to ensure local law enforcement agencies are aware of the new reporting requirements.

- Employees may be instructed to report any reasonable suspicion of a crime committed against a resident of a facility to DQA via the online complaint survey at <http://www.dhs.wisconsin.gov/bqaconsumer/HealthCareComplaints.htm> or by calling 1-800-642-6552 and to the local city, town, village or county law enforcement agency. (Wis. Stat.

§ 939.12 defines a crime as “conduct which is prohibited by state law and punishable by fine or imprisonment or both.” *See Wis. Stat. chs. 940-961.*)

Currently there are no CMS regulations that apply specifically to section 1150B responsibilities. Consequently, state survey agencies will focus on (a) the events giving rise to reports made under this requirement and (b) the LTC facility’s responsibilities under existing CMS conditions and requirements. Questions concerning S & C Memo 11-30 should be addressed to Alice Bonner at alice.bonner@cms.hhs.gov or Akosua Ghailan at Akosua.Ghailan2@cms.hhs.gov.