

Eli's Rehab Report

Compliance: Rehab Agencies: Are You Measuring Up to Medicare's Newest Standards?

Get up to speed on CMS' latest participation guidance from Transmittal 83.

Stakes are higher for state surveys as of last spring, with the release of CMS Transmittal 83. Now, rehab agencies that want to participate in the Medicare program must follow additional rules.

"CMS had not updated the Interpretive Guidelines with policy changes since January 2006," says **Nancy Beckley, MS, MBA, CHC**, president of **Nancy Beckley & Associates Rehab Compliance Resources**, based in Milwaukee, WI. "The update confirms changes that had been updated over the years with notification in the annual Medicare Physician Final Rules."

Example: One change noted in Transmittal 83 is the number of clinical records to be sampled during a survey. Now, surveyors must gather a minimum of 25 clinical records. In addition, this sampling must represent both the rehab agency's current roster of patients, as well as discharged patients, from the past six months. Also, the sampling must represent the primary site and any extension locations, as well as all services your agency provides.

Rehab agencies not aware of the updates over the past five to six years should complete an extensive audit of their existing policies and procedures, Beckley suggests. "Rehab agencies are subject to an unannounced site visit for the purpose of Medicare recertification or to validate the findings of an accreditation company, and agencies should be aware that surveyors will apply the standards that were effective on March 15, 2013."

Although CMS had many updates in Transmittal 83, ranging from emergency procedures to personnel qualifications, we've highlighted three areas that could have easily slipped under your radar:

1. Re-Evaluate Your Extension Site Locations

If your rehab agency has multiple locations and extension sites, get out your map and scale. CMS now requires that the geographical area for an extension site must be within a 30-mile radius from where 90 percent of the primary site's population lives.

"This may change our ability to cross state lines," says **Laura Cantrell, MS, PT**, director of outpatient services for **Infinity Rehab**, based in Wilsonville, OR.

This change may also force rehab agencies to have more primary sites and less extension sites. "If the extension site is outside that 30-mile radius, now that has to become a primary site," Cantrell says.

Additional impact: More primary sites means more places to be surveyed, Cantrell says, as well as additional provider numbers and credentialing of therapists.

2. Note the 2-Person Rule ... and Its Exception

Two people from the rehab agency must be on the premises at all times when a patient is being treated. This rule is not new, "but it is sometimes overlooked," according to CMS. A good way to verify you're following this rule is to compare staff time cards to patient sign-in sheets, CMS suggests.

The 2-person rule can be a staffing challenge, especially at extension locations. On the bright side, "CMS clarified that the 2-person rule applies only when you're using space that the rehab agency has identified as agency space," Cantrell says.

What this means: If you are treating a patient outside of official rehab agency space (e.g. the patient's home) the 2-person rule does not apply. "So, if staffing is an issue, you may want to plan the patient's therapy to be conducted at a non-agency space," Cantrell suggests.

3. Use Extra Discretion With Your Treatment Space

If you're used to treating patients in a public space (such as general-use areas of an ALF or independent living area), you must ensure patient privacy. CMS now requires that the area be closed to the general ALF or independent living population when you are treating a rehab agency patient.

The problem: "Many times therapists want to transfer a patient from therapy caseload back into community events, such as a community exercise class, or you may be used to working in a large, busy gym," Cantrell says. "Also, speech therapy may need to work with a resident during dining, and you can't just ask the other people to leave the dining room." Therefore, concerns have arisen on how CMS will interpret this regulation in these special cases.

Best bet: For now, if you're working in a gym space, consider using a curtain to section off a private space for therapy, Cantrell suggests. "You could also try to find a private room or create a schedule with designated gym hours for therapy." You can also post a sign saying the gym is closed during certain times.

"Have a conversation with your customers to mitigate any adverse reaction to the community at large," Cantrell says. "Emphasize that these changes are to ensure you're providing confidentiality to your customers."

To read the transmittal, see tinyurl.com/kamb89x.