

## Long-Term Care Survey Alert

### LTC Trends: Forewarned Is Forearmed: CMS Action Plan Highlights What's Rolling Down The Survey Pike

Brace yourself for F-tag revisions, beefed-up quality reporting and more.

It's not a crystal ball but close: The **Centers for Medicare & Medicaid Services'** detailed 2008 action plan, which appeared on the agency's Web site this spring, gives you a heads up on what to expect. From Nursing Home Compare (NHC) changes to the Special Focus Facility initiative, CMS has a lot in store for long-term care. So read up to make sure you're in the loop.

CMS continues to fine-tune information available to consumers on the agency's NHC Web site. As part of a longer-term plan to improve staffing data, the agency is investigating the feasibility of using payroll data as the basis for and to augment staffing information on NHC. In FY 2008, the agency may publish a proposed rule to initiate use of an electronic system for reporting payroll data to NHC.

**Not only that:** In an April 2008 statement, CMS announced the agency would post on NHC the names of facilities that are or have been on the Special Focus Facility list, which is composed of poor-performing facilities destined to either improve -- or get booted from Medicare and Medicaid.

**Proactive strategies:** Diligently monitor the data CMS uses and publishes on Nursing Home Compare -- not just data on the MDS but also on survey forms, advises **Howard Sollins, JD**, with the law firm of **Ober/Kaler** in Baltimore. "Nursing Home Compare can be misleading when it doesn't include updated information to reflect the results of informal dispute resolution where facilities eliminate or decrease the scope and severity of a deficiency -- or when staffing information is inaccurately reported on the Web site." He suggests bringing any inaccuracies posted to NHC to the attention of relevant agencies and others.

Also be prepared to own and explain your quality measures reported on NHC, suggested **Christie Teigland, PhD**, in a presentation at the 2008 **American Medical Directors Association** meeting. In her talk, Teigland highlighted one nursing facility's pain measure scores on NHC, which looked "horrible" at 78 percent. But the facility specializes in wound care and is "excellent," Teigland said.

Focus Continues on Special Focus Facilities

"In the Ninth Scope of Work, the nation's Quality Improvement Organizations or QIOs will [each] be required to work intensively with three nursing homes selected from the Special Focus list," says **Teresa Mota, RN, CRRN, CALA, RAC-CT**, lead project coordinator for the Nursing Home QIO Support Center with **Quality Partners of Rhode Island**. "The QIO will work collaboratively and intensively with the nursing home to identify where its systems of care may be breaking down, performing a root-cause analysis of the problem and helping to create an action plan that will address the issues identified," Mota tells **Eli**.

As part of their current scope of work, QIOs have already been working with nursing homes that have had poor survey results.

More Revised Survey Guidance, Fire Rule Coming

CMS plans to release revisions to F325 and F371 (nutritional status, and food sanitation and safety) this summer. Look for pain management (as part of F309) in the fall. (For a free copy of an MDS Alert article, "Perfect Your Pain Coding

Prowess: Look For These Risk Factors In Cognitively Impaired Residents," send your request to the editor at [KarenL@EliResearch.com](mailto:KarenL@EliResearch.com).)

Also look for a final rule in August requiring all nursing homes to be fully sprinklered at the conclusion of a designated phase-in period.

**There's more:** CMS says the agency will submit a legislative proposal to establish an escrow account to hold nursing facilities' civil monetary penalties pending appeals outcomes. Other initiatives discussed by the 2008 plan include the ongoing work on the Quality Indicator Survey, value-based purchasing, the MDS 3.0 and the STRIVE study for revamping the RUGs.

#### Experts Weigh in on CMS Plan

"As a whole, CMS is trying to be responsive to criticisms the agency has received [about nursing home oversight] from the GAO, Congress, nursing home stakeholders and the HHS **Office of Inspector General**," Mota says.

But attorney **Joseph Bianculli**, in Arlington, VA, who represents nursing homes in survey challenges, notes that "regulation of nursing facilities obviously is a vital government function, and the optimal level of deficiencies, abuse, etc., obviously is zero." Yet "as CMS' 'action plans' become more elaborate and academic in tone, there is an increasing air of unreality about the notion that increasing only regulatory oversight will improve 'quality.'

"If CMS thinks things have not been working very well, then it should change its approach and stop simply demanding better outcomes without doing the hard work of studying what actually promotes such outcomes, and then promoting and paying for those things," Bianculli says.

Read the CMS 2008 action plan at <http://www.cms.hhs.gov/CertificationandCompliance/Downloads/2008NHActionPlan.pdf>.