MDS Alert

CMS Updates: Check Out These Proposed Changes to RoP

Hint: Generally, CMS plans to ease burdens on facilities and physicians.

For the past couple years, your facility has perhaps gone headlong into preparations for the various changes in the Centers for Medicare & Medicaid Services (CMS) Requirements of Participation (RoP).

Context: In October 2016 the regulation "Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities" was published, with the goal of implementing more person-centered care for residents of long-term care facilities. With the immensity of these new requirements and the administrative and financial burden implementation would accrue, some industry stakeholders asked for more time, leading to the three-year phase-in. With the third phase implementation date - November 2019 - fast approaching, CMS has released a proposed rule "Medicare and Medicaid Programs; Requirements for Long-Term Care Facilities: Regulatory Provisions To Promote Efficiency, and Transparency" that would remove or lessen some of the more burdensome changes.

Some Aspects Still Get Greenlight

The proposed rule doesn't adjust all the aspects of the Phase 3 measures for which your facility has been preparing.

For example, many aspects of the Infection Control measures are still a go. The original measure in the RoP required that facilities designate an individual to be the "infection preventionist" and work "part-time" at a facility, but the proposed rule suggests eliminating that time requirement, instead requiring the infection preventionist spends enough time on the clock to meet the needs of the facility's infection control and prevention program. CMS is eliciting comments from stakeholders specifically on how various facilities will interpret this requirement - and how they'll determine if infection preventionists can devote sufficient time to achieve the program objectives.

The trauma-informed care component of the RoP is not mentioned at all in the proposed rule, so facilities should be prepared to incorporate a more sensitive delivery of care into their residential communities. (For more on trauma-informed care, see story, page 88.)

Glitchy Guidance Clarified

If you've been wondering what to do about the guidance to inspect bed rails before installation- when many beds come with bed rails or side rails already installed - along with concerns about adjusting those while maintaining the factory warranty, fret not. After many public comments, CMS is proposing adjusting the language surrounding bed rails in the Quality of Care regulations to replace "installation" with "use." This adjustment would help CMS focus on the meat of the guidance instead of causing facilities and surveyors to get caught up in timelines and other issues that aren't directly related to resident safety or resident care.

Changes to QAPI to Promote Flexibility

In the proposed rule, CMS says that the initial RoP regulations for the Quality Assurance and Performance Improvement (QAPI) Program were so detailed that they presented problems for facilities in focusing on actual improvement of care. Therefore, CMS has proposed deleting the guidance in the subparagraphs, allowing facilities more flexibility by eliminating some criteria.

Sigh Relief over Emergency Preparedness Reqs

One big change included in the proposed rule is the removal of the emergency preparedness that are deemed duplicative of requirements already in effect through other means.

"The emergency preparedness requirements are very detailed and discuss the full range of requirements for a facility to have an emergency plan, conduct a risk assessment, have policies and procedures, a communication plan, and conduct training and testing. As such, we are proposing to remove the unnecessary requirement at § 483.70(e)(3) that requires each facility to conduct and document a facility-wide assessment for both day-to-day operations and emergencies," the proposed rule says.

Cut Paperwork in These Areas

If you've felt overwhelmed by the requirements to notify your state's long-term care ombudsman office for every single transfer or discharge, the proposed rule aims to alleviate some pain by requiring notifications for only involuntary transfers and discharges, which CMS says will save approximately 1.4 million dollars.

Additionally, in terms of resident rights, CMS is proposing that the requirement to keep residents informed of their respective attending physicians change frequency, from "remain informed" to upon admission, when the resident requests the information, or when the information changes.

The grievance process is also facing a few proposed changes, including clarifying "resident feedback," ensuring that written grievance decisions include pertinent information, such as corrective actions; a winnowing of the retention period to 18 months from three years; and an adjustment of who can perform official grievance duties.

"CMS is proposing to remove the specific duties required of a designated grievance official. This would provide facilities with flexibility related to who the grievance official's responsibilities would be delegated to, including making multiple persons responsible for the grievance process," says **Linda elizaitis, Rn, Bs, RaC-Ct, CDs,** president of **CMS Compliance Group** in Melville, New York.

Understand these Adjustments for Nursing, Pharmacy

CMS is proposing adjusting the data retention period for daily posted nurse staffing information to 15 months from 18 months, saying that while they want to prioritize flexibility for facilities, they believe it's important for the public, like prospective and current resident families, to have both the historical data and consistently up-to-date information.

Psychotropic medicine has been a big point of investigation and contention across long-term care stakeholders, and CMS has attempted to address how pro re nata (PRN) orders could be renewed. Currently, PRN orders for antipsychotic medications are limited to 14-day orders, but CMS is proposing that the day limit be removed, if whoever is prescribing the order supports it with documentation that includes the rationale for the continued use.

Resource: Read the entire proposed rule here www.federalregister.gov/documents/2019/07/18/2019-14946/medicare-and-medicaid-programs-requirements-for-long-term-care-facilities-regulatory-provisions-to. Comments close at 5 p.m. on Sept. 16, 2019.