

## MDS Alert

### Compliance & Payment News

While CMS hadn't at press time released its final SNF PPS rule, you might want to take a look at how you document group therapy now, according to one expert. The FY 2012 proposed rule says that "SNFs should include in the patient's plan of care an explicit justification for the use of group, rather than individual or concurrent, therapy. This description should include, but need not be limited to, the specific benefits to that particular patient of including the documented type and amount of group therapy; that is, how the prescribed type and amount of group therapy will meet the patient's needs and assist the patient in reaching the documented goals."

**Kate Brewer, PT, MBA, GCS, RAC-CT**, believes that therapists in most places are documenting how they individualized group therapy for each resident, and how the therapy is medically reasonable and necessary. The proposed regulation, however, "appears to be looking to have SNFs now describe why they are using group therapy -- not just why the services they provided in a group setting were skilled," adds Brewer, VP of Greenfield Rehabilitation Agency in Greenfield, Wis. While Brewer believes that clinicians already go through this decision-making process in their minds, she notes that the proposed rule would have them document it.

Providers may choose to begin to implement these proposed documentation requirements now "to ensure they have the most 'defensible' documentation to keep the RUG level" the resident qualifies for, if it includes group minutes, Brewer advises.

Looking for a quick review of how to perform an effective prepayment review? To perform a self-audit, "take a sample of claims, both Part A and Part B, and review the entire process from admissions to the clinical chart to the vendor invoice" to make sure you're putting the proper information on the Medicare claim, advises **Janet Potter, CPA, MAS**, healthcare research specialist with FR&R Healthcare Consulting in Deerfield, Ill. Also review the MDSs related to the claims, "looking for errors, omissions, and inconsistencies."

Whenever possible, those conducting the self-audits shouldn't be the ones who initially prepare the MDS, claim, or other information, Potter advises. "Facilities should be sure to follow-up on any errors, omissions or inconsistencies -- not only by correcting the information when possible, but also by educating staff who are responsible for creating the documentation."

If you provide respiratory therapy or plan to, take a look at the revised RAI User's Manual definition of a respiratory nurse. A clarification in Appendix A says that "a respiratory nurse must be proficient in the modalities listed [on page A-19] either through formal nursing or specific training and may deliver these modalities as allowed under the state Nurse Practice Act and under applicable state laws." ("RT services," states the manual, "include coughing, deep breathing, heated nebulizers, aerosol treatments, assessing breath sounds and mechanical ventilation, etc. ...")

Consultant **Rena Shephard, MHA, RN, RAC-MT, C-NE**, notes that people have been requesting CMS to define a respiratory nurse for a long time. "The instructions have said it has to be an RT or a respiratory nurse [providing RT] and everyone wanted to know what is a respiratory nurse," adds Shephard, president and CEO of RRS Healthcare Consulting Services in San Diego, and executive editor for the American Association of Nurse Assessment Coordinators.

"Harmony Healthcare International has stressed that training is needed to ensure competency in respiratory therapy techniques and that state practice acts must be adhered to," says **Elisa Bovee, MS, OT/LR**, VP of operations for the consulting firm in Topsfield, Mass.

Protecting your providers' data can help prevent what happened in a recent Florida fraud case. Individuals bought a therapy practice and stole the identity of a legitimate physical therapist to submit Medicare claims. In addition, they stole Medicare data from people that they knew so they could send claims to Medicare on those patients' behalf, to the

tune of \$757,654, a June 10 Department of Justice press release notes ([www.justice.gov/opa/pr/2011/June/11-crm-763.html](http://www.justice.gov/opa/pr/2011/June/11-crm-763.html).)

Tip: Treat your physician and other practitioner data, including birth dates, NPIs, and Social Security Numbers, with the same security settings that you use for your patient data. Plus, you should shred papers that include this information on them before throwing them in the trash.

Don't cross the line when teaching your staff how to respond to auditors and surveyors. "You can't tell staff not to speak to an investigator but you can inform them of their rights," advises attorney **Paula Sanders**, with Post & Schell in Harrisburg, Pa. "Those are two totally different things," she points out. "The policy should be that 'we cooperate, we tell the truth, we don't hide things.' That's where the training piece comes in. You don't want a rogue manager running around saying, 'Don't say anything.' And then boom, you're hit with an obstruction of justice charge."

Sanders says she doesn't have a problem with training people to understand how to reply to questions, which is what attorneys do to prepare people for a deposition. "You teach people to listen to the question and answer and not guess or be afraid to say, 'I don't know,'" if accurate. If the person isn't sure about an answer, he can say: "I can't recall but I will check into it" or "I am not certain about the answer, but I will find out for you," Sanders says.

"What often gets people into trouble is speculating in an effort to be helpful," she warns.