

MDS Alert

Industry News to Use: SNFs: Are You Meeting The Level-Of-Care Requirement?

Plus: Care quality, hospitalizations and overpayments are on OIG's hit list for NFs.

In a level-of-care review of skilled nursing facilities (SNFs), Recovery Auditor Contractors (RACs) found that claims and associated patient medical records revealed that patients' care was primarily psychiatric and failed to meet the SNF level of care.

Auditors conducted a complex review of SNF-submitted claims, searching for "non-covered care" — any level of care that is less intensive than the SNF level of care, according to the October 2014 Medicare Quarterly Provider Compliance Newsletter from the **Centers for Medicare & Medicaid Services** (CMS).

The Medicare Benefit Policy Manual states that "skilled observation and assessment may be required for patients whose primary condition and needs are psychiatric in nature or for patients who, in addition to their physical problems, have a secondary psychiatric diagnosis. These patients may exhibit acute psychological symptoms such as depression, anxiety or agitation, which require skilled observation and assessment such as observing for indications of suicidal or hostile behavior."

Tread carefully: The Manual goes on to say: "However, these conditions often require considerably more specialized, sophisticated nursing techniques and physician attention than is available in most participating SNFs." Therefore, you must carefully document these cases.

Resources: For more information on Medicare regulations regarding the level-of-care requirement, go to www.gpo.gov/fdsys/pkg/CFR-2002-title42-vol2/pdf/CFR-2002-title42-vol2-sec409-33.pdf. Also, see the relevant portions of the Medicare Benefit Policy Manual at www.cms.hhs.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/bp102c08.pdf.

In Other News ...

What's On The OIG's Wish-List For Nursing Facilities

The **HHS Office of Inspector General** (OIG) has pinpointed the top management challenges facing HHS, and nursing facilities have made the list. So get ready for big care-quality, payment and other changes coming in the future.

In the 2014 Top Management & Performance Challenges, the OIG made quite a few recommendations, such as that HHS should:

- Monitor how often nursing home residents are hospitalized;
- Develop resources to help nursing home staff reduce the incidence of adverse events;
- Link payments for services to meeting quality-of-care requirements;
- Work with OIG to hold providers that have rendered substandard care accountable;
- Promulgate the regulations mandated under Section 6102 of the Affordable Care Act concerning compliance and ethics programs for nursing homes;
- Establish minimum federal qualification standards for providers of Medicaid-funded personal care services;
- Improve CMS's and states' ability to monitor billing and care quality;
- Issue operational guidance for claims documentation, beneficiary assessments, care plans and supervision of personal care attendants; and
- Issue guidance to states regarding adequate prepayment controls and help states access data necessary to



identify overpayments.

To view the entire OIG 2014 Top Management & Performance Challenges, go to <http://oig.hhs.gov/reports-and-publications/top-challenges/2014/>.