

MDS Alert

Surveys and Compliance: Prioritize Protection of Resident Belongings

Educate staff on how to keep residents safe.

Helping residents feel at ease in their home - the nursing facility - requires establishing and maintaining a certain level of trust. One abiding, crucial aspect of "home" for most people is the ability to let one's guard down. When your home is shared by many other people and is also a workplace, it can be harder to achieve that ease of mind.

Making sure residents are not subjected to any kind of abuse, neglect, or exploitation is an obvious goal for all industry stakeholders, and regulators and surveyors are looking out for opportunities to both educate facilities on appropriate measures, as well as protect residents' rights and well-being.

Surveyors can cite Ftag F602 "Free from Misappropriation/Exploitation," which says that residents have the right to be free from misappropriation of their property and free from exploitation.

If you're not familiar with this citation, note that the interpretive guidance was expanded when the Centers for Medicare & Medicaid Services (CMS) updated the Requirements of Participation (RoP), says **Linda Elizaitis, RN, RAC-CT, Bs, CiC**, president of **CMS Compliance Group** in Melville, New York. Simultaneously, surveyors were given a detailed protocol to follow during their evaluations.

Be Familiar with the Definitions

The State Operations Manual Appendix PP offers these definitions:

- Exploitation: "Taking advantage of a resident for personal gain, through the use of manipulation, intimidation, threats, or coercion."
- Misappropriation: "The deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident's belongings or money without the resident's consent."

Appendix PP notes that this includes money, jewelry, clothing, electronics, as well as personal information, such as information that pertains to identity, as well as financial information.

Surveyors have cited facilities with F602 when residents' wallets or their cash or gift cards disappeared. Surveillance cameras proved helpful in nabbing guilty staff in these situations, as staff members were identified being in the rooms when the items went missing or even recorded while executing the thefts, Elizaitis says.

Surveyors also cited a facility with F602 when a certified nurse assistant "traded" a \$20 bill with a resident so the staff member could use the bill in a vending machine because the traded bill was proven to be counterfeit, she says.

Watch Out for Missing Meds

Don't forget about medications when you're considering resident property, Elizaitis warns. Surveyors doled out F602 to several facilities when residents' medications - including controlled substances - were diverted from their intended recipient and use. Some of the facilities cited were put into Immediate Jeopardy.

One facility reported a diversion of controlled substances and the suspect, an RN who was a float nurse, worked at another facility in the area. Authorities arrested the RN and an investigation revealed that neither facility had conducted the appropriate background checks on the employee; both were put into Immediate Jeopardy, Elizaitis says.

Surveyors cited a facility with F602 after a different nursing facility presented social media communications showing that an LPN was selling controlled substances. The LPN was observed to have spent most of a shift in the medication room and medications - controlled substances - were confirmed missing.

Avoid Situations Involving Manipulation

The power differentials inherent to caregiving may make residents feel vulnerable to manipulation, intimidation, threats, or coercion from staff members. Surveyors have cited facilities in instances when staff members have manipulated residents to loan or give money or belongings, as well as situations where staff members access residents' personal financial or identity information. One facility was cited when the director of social services asked a resident for a \$1,000 loan, which the resident acquiesced to, saying he felt uncomfortable saying no to a facility employee, Elizaitis says.

Note: A resident's cognition or the environment in which a resident agrees to a staff member's request may invalidate consent. "A resident's apparent consent is not valid if it is obtained from a resident lacking the capacity to consent, or consent is obtained through intimidation, coercion or fear, whether it is expressed by the resident or suspected by staff," Appendix PP says, in the guidance for F602.

Know How Surveyors Will Investigate

Facilities should already be working toward providing an environment free of exploitation and misappropriation, and surveyors have pages of explicit instruction to investigate any allegations of either situation.

"Facilities need to have comprehensive policies and procedures in place to prevent misappropriation of resident property, as well as exploitation. These topics need to be covered as part of the facility's mandatory abuse training that should be in place as part of the Requirements of Participation," Elizaitis says.

Be prepared: If an allegation is made during the survey, surveyors are instructed to look over the facility's policies and procedures as they pertain to exploitation and misappropriation and note that the related policies need not be in a single document or manual. Surveyors are then instructed to examine and observe how medications are stored (if, for example, controlled substances were diverted) or how any other property reported missing had been stored and accessed. Surveyors would then, when appropriate per the situation, review records and conduct interviews with resident and/or family, staff, alleged perpetrator, facility investigator, facility administrator, or staff person responsible for quality assurance. Allegations of drug diversion might prompt surveyors to contact local, state, and federal authorities, including the Drug Enforcement Administration.

Follow up on Any Allegations by Focusing on Resident

Elizaitis recommends checking in on the resident's emotional and mental well-being amidst any allegations of exploitation or misappropriation. She specifies that facility staff should keep an eye out for differences in the level of trust a resident shows staff or other people, any fear of being touched or being in proximity with others, as well as physical changes like trembling, cowering, altered sleep patterns, or different behaviors like angry outbursts or agitation.

"Misappropriation and exploitation can have a profound negative affect on a resident, so we need to do our utmost to prevent misappropriation and exploitation education and monitoring of the effectiveness of the system," she says.