NURSING HOME SURVEILLANCE UPDATE

Shelly Glock, Director
Division of Nursing Homes and ICF/IID Surveillance
Center for Health Care Provider Services and Oversight
Office of Primary Care and Health Systems Management
November 16, 2016
Today’s Discussion Topics:

CMS Initiatives update
• Changes to LTC Regulations and Survey Process
• New Enforcement Penalties
• Reducing Antipsychotic use
• Focused Dementia Care Surveys

NYSDOH updates
• Pressure ulcer reduction
• FFY 2016 Surveillance Update
MISSION

The Division of Nursing Homes and ICF/IID will ensure residents of NYS nursing homes and ICF/IID facilities are protected from harm through:

- **Close surveillance monitoring** to ensure facilities meet applicable federal and state health standards; and

- **Fostering of continuous improvements** through collaboration with the long term care community.
Division of Nursing Homes and ICF/IID Surveillance

Capital District Regional Program, Area Program Director: Kim Valente

Central New York Regional Office, Area Program Director: Nancy Finnigan

Metropolitan Area Regional Office, Area Program Director: Toni Herman/Leah Ryer-Assistant Director

Survey Managers: New Rochelle-Ed Aguardo; NYC-Shawn Dudley; Central Islip- Deb Rietmann-Acting

Western Regional Office, Area Program Director: Joe Egnaczak
CMS Initiatives
LTC Regulation Changes and New Survey Process
Themes of LTC final Rules

- Comprehensive Review and Modernization
- Phased in implementation
- Person Centered Care
- Quality
- Facility Assessment, and a Competency –Based Approach
- Alignment with HHS Priorities
Comprehensive Review and Modernization

• *Bringing it into the 21\textsuperscript{st} Century*

• Despite significant changes in industry not updated since 1991.

• Updated to reflect advances with current health and safety practices and service delivery.
Phased in implementation

Regulations will be implemented in 3 phases:

- Phase 1 - November 28, 2016
- Phase 2 - November 28, 2017
- Phase 3 - November 28, 2018
Phase 1

Appendix PP-Advanced copy has been updated to include revised regulatory requirements as is effective November 28, 2016. (S&C 17-07-02 Draft Appendix PP)

● This advanced copy will be used for surveys occurring on or after November 28, 2016.

● Only Phase 1 regulatory text is effective in this version. Phase 2 and 3 language is included but is distinguished within Appendix PP by their effective dates.
Person Centered Care

• Residents and Representatives: Informed, Involved and In Control.
• Existing Protections Maintained
• Choices
• Care & Discharge Planning
• Prohibit pre-dispute arbitration requirements
Quality

• Quality of Life and Quality of Care—additional special care issues (restraints, pain management etc)

• Quality Assurance and Performance Improvement (QAPI)
Facility Assessment and Competency - Based Approach

- Facilities need to know themselves, their staff and their residents.

- Not a one size fits all approach

- Focus on residents achieving highest practical well being.
Align with Current HHS Initiatives

Advancing Cross – Cutting Priorities

• Reducing unnecessary hospital readmissions

• Reducing the incidence of healthcare acquired infections

• Improving behavioral healthcare

• Safeguarding nursing home residents from the use of unnecessary psychotropic medications
New Survey Process

• Phase 1-New language under current F Tags/Surveyor training- November 2016

• Phase 2-Interpretive Guidelines, New F tag numbering, Begin surveying with the new survey process-November 2017
New Survey Protocol

• Computer based

• Sample selection
  ➢ Sample size based on census
  ➢ Sample split-70% MDS algorithm (high risk/prevalence rate)
    30% selected onsite-high risk, new admits, active complaints, identified concerns

• New tasks/pathways –new regs
New Regulations-Emergency Preparedness

● Final rule posted Sept 8, 2016, Goes into effect on Nov 16, 2016, Must comply and implement by November 16, 2017.

Spring 2017-Interpretive guidelines and survey procedures and training

● Resource for providers can be found at
All providers/suppliers required to establish an emergency preparedness program addressing four core elements

1. **Risk assessment and planning:** Facility based and community based assessment prior to creating a plan: all-hazards approach; develop scenarios

2. **Policies and Procedures:** to implement/execute the plan based on assessment/plan – Continuity of Operations (COOP); shared resource management; collaboration with key agencies and stakeholders; patient/resident/staff tracking; SiP, safe evacuation, S-R arrangements; vulnerable pops, transportation

3. **Communication Plan:** key contacts (staff, agencies, physicians) redundant/alternate means of communication; patient/resident data sharing/documentation

4. **Training and Testing:** facility develop and maintain an emergency preparedness training and testing program for new and existing staff. Demonstrate competency via Annual exercises (2): a full scale, community exercise and a facility based drill
New Life Safety Code (LSC) Updates

- CMS adopted the 2012 LSC and Health Care Facilities Code (HCFC) by final rule on 5/4/2016. S&C: 16-29-LSC

- Regulation effective date July 5, 2016.

- CMS has begun surveying for compliance on November 1, 2016.

- LSC surveyor training completed via webinar to provide training on new regulation requirements.

- Important Date: July 5, 2016- Buildings constructed before 7/5/16 can meet existing occupancy requirements.
Civil Monetary Penalties (CMP’s)

• In order to promote compliance with Medicare and Medicaid COP, CMP’s are implemented in certain situations as one of the enforcement remedies which CMS has.
Civil Monetary Penalties

• 2016: For the first time in more than 20 years, CMS has increased the numbers and types of situations where CMP’s must be imposed against facilities without an opportunity to correct their noncompliance.

• Effective Sept 6, 2016

• Adjustment of CMP’s for inflation (S&C 16-40)
Civil Monetary Penalties

- Effective for surveys on/after September 1, 2016, RO must impose CMP when:
  - IJ/SQC
  - G level in resident behavior and facility practices, QOL, QOC
  - G or above on current survey plus G or above on immediately preceding survey
  - F or higher for SFF
  - S&C 16-31, July 2016
Civil Monetary Penalties (CMP’s)

Mitigating factors considered when determining CMP’s:

• History of facility noncompliance
• Repeated deficiencies in the same regulatory grouping
• Total number of deficiencies
• Facility Culpability
• Facility Financial condition
State Enforcement Actions

• DAL 16-04 dated September 27, 2016.

• Revisions to Section 12 enforcement actions to align with CMS policy.

• Department can initiate state level enforcement for repeat noncompliance at below harm level.
2012 CMS formed the Partnership to Improve Dementia Care, an initiative to ensure appropriate care and use of antipsychotic medications for nursing home residents

Goal- Enhance the use of non-pharmacological approaches and person centered care practices.

Initial focus-reduce the National rate of antipsychotic medication use in persons living in nursing home by 15% by the end of 2012, new goal of 25% reduction end of 2015 (15.97% NYS), 30% goal by end of 2016 (14.91% NYS)

Distributed to all nursing homes the “Hand in Hand” training series that emphasizes person-centered care, prevention of abuse and high quality of care for residents
SHIFT IN VISION

- Much like the shift in 1997 regarding the use of restraints to keep residents safe, the S&C letter of May 24, 2013 represented a focus on acceptable approaches of care for residents with dementia with behavioral or psychological symptoms of dementia (BPSD), as well as those residents that are prescribed an antipsychotic medication without clinical justification.

- 1990’s: Restraint use dropped from 21% to 6.2%.
CMS PARADIGM SHIFT

Person Centered Care

- organizational focus on the individual, as a person

Reduce Use of Antipsychotic Medications

- organizational focus to reduce the use of antipsychotic medications when clinical justification and documentation are not present by understanding the triggers and root causes and implementing non-pharmacological approaches
NYS Goals

To exceed National AP Drug reduction rates of:

- 2011Q4: 23.9% baseline
- 2015Q3: 17.4%
- 2016Q2 16.3%

New York State Rates:

- 2011Q4: 21.3% baseline
- 2015Q3: 15.74%
- 2016Q2 14.15%

Current Goals for NYS:

- 2015: 15.97%
- 2016: 14.91% (30% reduction since 2011Q4)
FACILITY ACCOUNTABILITY

Facilities must assure that every antipsychotic medication prescribed is clinically indicated, that non-pharmacological approaches to care are implemented prior to the introduction of medication, unless contraindicated, and a system is in place to document, monitor and revise the resident’s care plan on a consistent basis.
Focused Dementia Care Survey

- Piloted in 2014 to gain insight into ways current survey process could more effectively assess compliance with federal requirements related to dementia care practices in nursing homes. (5 states including NYS)
- Expanded in 2015. Targeted effort to improve surveyor effectiveness in citing poor dementia care and over utilization of antipsychotics. CMS determined specific NH’s, counted as surveys of record.
- Surveyor Tools available online.
Overall Themes of Data Analysis-FY2015

- Focused surveys facilitated compliance with dementia care and changes in quality of life practices were noticeable.
- 24/37 surveys (65%) cited F309 (Care of a Resident with Dementia)
- 26/37 surveys (70%) cited F329 (Unnecessary Use of Medications)
- 21/37 surveys (57%) cited both F309 and F329.
- Other cited tags included F248 (Activities Meet Interests), F279 (Develop Comprehensive Care Plans), F428 Drug Regimen Review and F520 (QA&A)
- Of 240 total citations across the US, only 7.5% were cited at a G/Harm level
2016 Next Steps

● CMS to continue to analyze data related to variation in enforcement activity related to scope and severity.

● CMS to explore shift from prescribing antipsychotics to anxiolytics or sedatives/hypnotics as well as changes in cognitive or functional status reflected in the MDS data that may result from a shift to more non-pharmacological approaches to dementia care.

● CMS conducting additional Focused Dementia Care Surveys in 2016 targeting nursing homes that continue to have high rates of antipsychotic use.
NYSDOH Updates
Reducing Pressure Ulcers
NYS Pressure Ulcer Rates

Percentage of High Risk Residents with Pressure Ulcers in New York State Nursing Homes

Source: Center for Medicare and Medicaid Services through 6/30/16

National Average 5.7%
Strategies

• Engage all
• Set and communicate goals
• Identify baseline-tracking tools
• Create improvement using evidence based tools
• Celebrate success!!
Gold STAMP Program to Reduce Pressure Ulcers

www.goldstamp.org

- Overview
- Collaborative Toolkit
- Physician Toolkit
- Online Education
SURVEY PERFORMANCE
### CITATIONS ISSUED
**FFY 2011 – FFY 2015**

**Recertification/abbreviated surveys, health/LSC inspections**

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Surveys with Immediate Jeopardy (IJ) - Citations Issued

- 17 surveys resulted in IJ citations during FFY 2016
- 31 surveys resulted in IJ citations during FFY 2015
- 33 surveys resulted in IJ citations during FFY 2014
- During FFY 2016, 24% (4) of the IJ citations were identified during abbreviated/complaint surveys
Immediate Jeopardy

Most Immediate Jeopardy is due to noncompliance in one or more of the following:

● Process system failures

● Underlying structure system problems (record systems, supply systems, etc.)

● Failure of leadership/management

● Failure of QA/risk management

● Lack of staff knowledge, skills, or competencies
Recognizing Immediate Jeopardy

The focus of the determination of immediate jeopardy is on:

• Timing: How imminent the danger appears, and

• Severity: Seriousness of the potential consequences
Remember

• Serious harm does not have to occur for IJ- it’s the potential to occur in the near future

• Serious psychological harm is just as significant as serious physical harm

• Individuals must not be subjected to abuse by anyone

• This covers not only staff but volunteers, visitors and other residents
Immediate Jeopardy

- Unsafe smoking
- Unsafe water temps/food temps
- Exit door egress
- Advance Directives
- Siderails
- Resident to resident abuse
- Background checks
- Infection control
- Fire alarm system not functioning
- Empty O2 tanks
THANK YOU!

shelly.glock@health.ny.gov
(518) 408-1267