



Center for Clinical Standards and Quality/Survey & Certification Group

Admin Info: 14-13-NH

DATE: February 21, 2014

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Minimum Data Set (MDS) Focused Survey

Memorandum Summary

- **Seeking Volunteer States:** The Centers for Medicare & Medicaid Services (CMS) is seeking volunteer states to participate in a short-term focused review to assess Minimum Data Set, Version 3.0 (MDS 3.0) coding practices in nursing homes. CMS is planning this pilot to inform future activities to enhance MDS 3.0 accuracy and care planning, including potentially more wide-spread, review activities focused on MDS 3.0 coding accuracy.
- **Conference Call:** Conference call for states considering participation in the pilot will be held on March 26, 2014 from 2:30-3:30 PM (EST).

Background:

CMS regulations for the Resident Assessment Instrument (RAI), including the MDS 3.0 and the Care Area Assessments (CAAs), are found at 42 CFR 483.20, and the guidance is found in Appendix PP of the State Operations Manual at F-Tags F272 through F287. These requirements apply to all residents in Medicare and/or Medicaid certified nursing homes. These regulations relate to assessment accuracy (42 CFR 483.20(g) Accuracy of Assessment) as well as completion and timing (42 CFR 483.20(b) Comprehensive Assessments and 42 CFR 483.20(c) Quarterly Review Assessment). In 42 CFR 483.20(i) Certification, CMS requires that each individual who completes a portion of the assessment must sign and certify the accuracy of that portion of the assessment and that a registered nurse (RN) must sign and certify that the assessment is completed. Federal regulations state at 42 CFR 483.20(j) Penalty for Falsification that those who falsify assessments are subject to civil monetary penalties. Additionally, when such patterns or practices are noticed, they should be reported by the State Agency (SA) to the proper authority.

While the primary purpose of the MDS 3.0 is to serve as the clinical basis for individualized care planning and delivery of person-centered care, CMS recognizes that the MDS 3.0 also impacts resource utilization group (RUG) scores and associated Medicare and, in some cases, Medicaid payment rates, quality monitoring, and more. In addition to being used for quality monitoring through survey activities and facility quality assurance, MDS 3.0 data forms the basis for the

facility's quality measures (QMs), including the subset of the publicly-reported measures used in the Five-Star Quality Rating System on Nursing Home Compare. Assessment accuracy has a critical role in all of the aforementioned outputs and is paramount to optimizing person-centered care planning and to ensuring each resident is able to attain or maintain the highest practicable physical, mental, and psychosocial well-being.

In their 2013 report, *Skilled Nursing Facilities Often Fail To Meet Care Planning and Discharge Planning Requirements*, The Office of Inspector General (OIG) reported that for 37 percent of stays, SNFs did not develop care plans that met requirements or did not provide services in accordance with care plans and for 31 percent of stays, SNFs did not meet discharge planning requirements.¹ Earlier work by the OIG has identified assessment errors are common in nursing homes.^{2, 3} In one report, the OIG reported, "SNFs reported inaccurate information, which was not supported or consistent with the medical record, on at least one MDS item for 47 percent of claims" reviewed in the study.³ Recognizing that accurate assessment is necessary for appropriate, individualized care planning, CMS is planning this small-scale, focused review project to document MDS 3.0 coding practices and inform future activities to enhance MDS 3.0 accuracy.

CMS is Requesting Volunteer State Agencies to Conduct Focused Reviews of MDS 3.0 Coding Accuracy:

CMS is planning to conduct a short-term, small-scale, focused review through partnerships with approximately five SAs. The intent of this review project is to document MDS 3.0 coding practices in facilities. CMS has identified, through aggregate analyses, certain MDS 3.0 items that have shown significant variation since the advent of the MDS 3.0. These surveys will focus on those particular MDS 3.0 items and will evaluate the MDS assessments and the associated care planning for nursing facility residents. CMS will identify the specific facilities to be surveyed.

Participating SAs will be asked to allocate two surveyors to the project for a period of two to four weeks for onsite surveys in up to five facilities as well as time required for training. CMS will work with each State to determine when the specific pilot will occur, with a target timeframe of June and July 2014. The reviews will be stream-lined MDS 3.0 accuracy reviews focusing on a subset of MDS 3.0 items. CMS will identify specific facilities and is developing both the survey protocol and tool for the states' use. Record review, augmented by resident observations and staff and/or resident interviews, will be used by the surveyors to validate MDS 3.0 coding. Additionally, while on-site, the surveyors will ask a series of questions regarding MDS-related practices of the MDS/RAI staff, facility leadership and others, as indicated.

¹ OIG, *Skilled Nursing Facilities Often Fail To Meet Care Planning and Discharge Planning Requirements*, OEI-02-09-00201, February, 2103.

² OIG, *Nursing Facility Assessments and Care Plans for Residents Receiving Atypical Antipsychotic Drugs*, OEI-07-08-00151, July 2012

³ OIG, *Inappropriate Payments to Skilled Nursing Facilities Cost Medicare More Than a Billion Dollars in 2009*, OEI-02-09-00200, November, 2012.

Training:

The information contained in this memorandum should be shared with appropriate survey and certification staff (including the State RAI Coordinator), their managers, and State and Regional Office training coordinators. Training for those States participating in the focused reviews will be provided via webinar by the CMS, including correct coding of those MDS 3.0 items being evaluated and the review process itself. This training will be mandatory for those SA staff conducting reviews as well as one manager or trainer within the SA. CMS will provide additional on-site training and coaching for at least one survey in each volunteer State. In addition, on-going phone and email support will be available while SAs are conducting the reviews.

Supplemental Funds Available:

States participating in the pilot will receive supplemental funds to their current Medicare allocation for up to five surveys.

Enforcement Implications:

MDS 3.0 inaccuracies noted during the survey will result in relevant citations, including those related to quality of care and/or life if noncompliance is noted in these areas related to the inaccurate assessment. If patterns of MDS 3.0 inaccuracies are noted, the case will be referred to the proper authority for follow-up. In the event that care concerns are identified during on-site reviews, the concerns may be cited or referred to the SA as a complaint for further review.

Next Steps: For questions on this memorandum, please contact Shelly Ray or Jen Pettis via email at MDSFORSandC@cms.hhs.gov or contact Shelly Ray via phone at 410-786-7884. Please send a letter of interest to shelly.ray@cms.hhs.gov by March 13, 2014. A conference call will be held on March 26, 2014 at 2:30 PM (EST) with interested SAs to further discuss the initiative. State must make a final determination by April 10, 2014 with training beginning very soon after.

Effective Date: Immediately.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management