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Memorandum

To: AHCA Members
From: Lyn Bentley and Dianne De La Mare
Subject: Nursing Home Compare Medicare Website (§6102)
Date: 9/24/2010

Accountability Requirements for Skilled Nursing Facilities and Nursing Facilities

On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act (PPACA). Subtitle B of the law, entitled **Nursing Home Transparency and Improvement** includes three parts. **Part I – Improving Transparency of Information** contains [§ 6102 – Nursing Home Compare Medicare Website](#).

Nursing Home Compare Website

The law requires that the Secretary of the Department of Health and Human Services (Secretary) provide certain information on the official Internet website of the Federal Government for Medicare beneficiaries (commonly referred to as the “Nursing Home Compare” – NHC - Medicare website). The information must be prominent, updated on a timely basis, easily accessible, readily understandable to consumers of long-term care services and searchable. The following information must be on the website:

- Staffing data for each facility (including resident census data and data on the hours of care provider per resident per day) including information on staffing turnover and tenure.
 - Concise and easily understood information of how to interpret the data;
 - Differences in types of staff – such as training associated with different categories of staff;
 - The relationship between nurse staffing levels and quality of care; and
 - An explanation that appropriate staffing levels vary based on patient case mix.
 - Links to State Internet websites with information regarding State survey and certification programs, links to Form 2567 State inspection reports on the website, including plans of correction. Any such links must be posted on a timely basis.
- Information to guide consumers in how to interpret and understand these reports.
- The standardized complaint form developed in accordance with provisions in the PPACA. Included must be explanatory material on what complaint forms are, how they are used and how to file a

- complaint with the State survey and certification program and the State long-term care ombudsman program.
- Summary information on the number, type, severity, and outcome of substantiated complaints.
 - The number of adjudicated instances of criminal violations by a facility or the employees of a facility -
 - that were committed inside the facility;
 - with respect to such instances of violations or crimes committed inside of the facility that were violations or crimes of abuse, neglect, and exploitation, criminal sexual abuse, or other violations or crimes that resulted in serious bodily injury; and
 - the number of civil monetary penalties levied against the facility, employees, contractors, and other agents.

The above information must be included on the NHC website by March 23, 2011.

Review and Modification of Website

The Secretary must establish a process to review the accuracy, clarity of presentation, timeliness, and comprehensiveness of the information reported on the NHC website as of March 22, 2010.

The review must be conducted in consultation with (1) State long term care ombudsman programs; (2) consumer advocacy groups; (3) provider stakeholder groups; and (4) any other representatives of programs or groups the Secretary determines appropriate. No later than March 23, 2011, the Secretary must modify or revamp the website based on recommendations from the review identified above.

Timeliness of Submission of Survey and Certification Information

Each State must submit information respecting any survey or certification made respecting a nursing facility (including any enforcement actions taken by the State) to the Secretary not later than the date on which the State sends the information to the facility. The Secretary must use the information to update the NHC website as expeditiously as practicable but no less frequently than quarterly.

This provision is effective March 23, 2011.

Special Focus Facility Program

The PPACA establishes the Special Focus Facility in law and requires the Secretary to conduct surveys of each facility in the program not less than once every six months.

This provision has no specific effective date, so one may assume it is effective immediately.

Availability of Survey, Certification, and Complaint Investigation Reports

A nursing facility must have all survey, certification and complaint investigation reports for the preceding three years available to any individual to review upon request. A notice of the availability of these reports must be posted in a prominent area of the facility that is accessible to the public.

This provision is effective March 23, 2011.

Guidance to States on Form 2567 State Inspection Reports and Complaint Investigation Reports

The Secretary must provide guidance to States on how to establish electronic links to Form 2567 State inspection reports, complaint investigation reports, and a facility's plan of correction or other response to such reports on the Internet website of the State. This Internet site should be the State's site that provides information on skilled nursing facilities and should, if possible, include information about NHC.

Each State must maintain a consumer-oriented website providing useful information to consumers about all nursing facilities and skilled nursing facilities in the State. The site must include the Form 2567 State inspection reports, complaint investigation reports, the facility's plan of correction, and any other information the State or the Secretary considers useful in assisting the public to assess the quality of long term care options and the quality of care provided by individual facilities.

There is no implementation date for this provision, but it is dependent on other sections which are implemented on March 23, 2011. Therefore, it can be assumed that this section is effective on March 23, 2011.

Development of Consumer Rights Information Page on Nursing Home Compare Website

The Secretary must ensure that as part of the information provided for comparison of nursing facilities on the NHC website, there is a consumer rights information page that contains links to descriptions of and information about the following:

- Documentation on nursing facilities that is available to the public.
- General information and tips on choosing a nursing facility that meets the needs of the individual.
- The nursing facility survey process (on a national and State-specific basis).
- On a State-specific basis, the services available through the State long-term care ombudsman for each State.

The implementation date for this provision is March 23, 2011.

AHCA Comments and Concerns

- Much of the information contained in this section is already in place, although perhaps not in statute. For example, the Special Focus Facility provision and some of the information required to be on the NHC website.

- CMS must provide clarity about how it will hold states accountable for their legally required timeliness.
- AHCA strongly encourages CMS to convene stakeholders, including providers and consumers, to review the additional information required by the law to ensure that the information is clearly understandable and that the site is easily used. This should be in addition to the legally-required stakeholder review and analysis of the NHC website as it exists prior to implementation of the PPACA provisions.
- CMS should include clear disclaimers regarding the nature of this information and the limitations of its value to the consumer. Such information is only a starting point for consumers and does not take into account other sources regarding a nursing facility's suitability such as customer and staff satisfaction and anecdotal information from other medical providers in the community.

August 30, 2010 meeting at CMS with Stakeholders

A meeting of stakeholders was convened by CMS in Baltimore on August 30, 2010, to discuss three provisions of this section:

- How to report complaint data on the NHC website.
- How to report staffing data on the NHC website.
- How to report complaint data on the NHC website.

Next Steps

AHCA will continue participation in the stakeholder group and strongly advocate for the most reasonable approach for posting the information that is required by law, including clearly understandable disclaimers (see above).