New York State
Department of Health

Nursing Home Update
Long Term Care Ombudsman Program
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The Department’s Residential Services located within OHSM will ensure residents of NYS nursing homes 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.
OVERVIEW OF SURVEY PERFORMANCE

- On average, 8 (SHI & LSC) citations are issued per recertification survey in NYS. The national average is 10 citations.

- Top areas for citations include:
  - Elopement
  - Smoking
  - Maintaining a Hazard Free Environment
  - Assessment and Care Planning
  - Establishing an Infection Control Program

- The Top 5 citations result in 25% of all citations issued.
Overview of Surveys With Immediate Jeopardy (IJ) Citations Issued

- 39 surveys were cited with IJ during FFY 2010, which is slightly lower than the prior fiscal years.
- 37 surveys have been cited at IJ during FFY 2011.
- 68% of the IJ citations were identified during abbreviated/complaint surveys.
- Top 3 IJ concerns include:
  - F323 Accidents
  - F309 Quality of Care
  - F225 Abuse
OVERVIEW OF COMPLAINT PROGRAM

- NYS receives approximately 12,000 calls per year.
- Approximately 9,000 calls result in intakes which require investigation.
- Over 50% of all intakes require investigation by Area Office Staff at the facility, resulting in over 3,600 complaint surveys per year.
- The focus is on regulatory compliance and facility culpability (substantiated vs. unsubstantiated).
- Over 9% of all intakes investigated onsite result in a finding of non-compliance.
CMS Special Focus Facility Program
Nursing Home Selection

- More problems than other nursing homes (about twice the average number of deficiencies),

- More serious problems than most other nursing homes (including harm or injury experienced by residents), and

- A pattern of serious problems that has persisted over a long period of time (as measured over the 3 years before the date the nursing home was first put on the SFF list).
SFF Selection

- Each State Agency reviews the candidate list provided by CMS.
- Candidate list ranks all nursing homes within the state based on the last 3 years of survey performance.
- Central Office DOH engages in discussions with Regional Office leaders and various key stakeholders including SOFA on those nursing homes demonstrating poor performance.
- DOH initiates report and makes recommendation to CMS Region II.
- Region II submits recommendation to CMS Central Office in Baltimore who is responsible to accept or decline recommendation and communicates back to DOH.
- DOH notifies the nursing home operator and administrator of designation by telephone and in writing.
- DOH schedules a meeting with CMS and the new designee to explain the SFF program and discuss plans and expectations for improvement.
How Does the SFF Program Work

- CMS requires that SFF nursing homes be visited in person by survey teams twice as frequently as other nursing homes.

- The longer the problems persist, the more stringent the enforcement actions that will be taken.

- Enforcement actions include civil monetary penalties (“fines”) or termination from Medicare and Medicaid.
Monthly Reporting to CMS

- **Not Improved:** These are nursing homes that have failed to show significant improvement despite having had the opportunity to show improvement in at least one survey after being named a SFF nursing home.

- **Improving:** These are nursing homes that have show significant improvement, as indicated by the most recent survey, and CMS is waiting to see if the improvement is sustained over time.

- **Recently Graduated:** These are nursing homes that not only improved, but have sustained significant improvement for approximately 12 months (through 2 surveys). Names as “graduates” for a few months will appear on the CMS report so that stakeholders tracking their progress remain informed.
NYS Special Focus Facilities

- Pathways Nursing & Rehab Center (Schenectady County - 7/27/07)
- The Hamptons Center for Nursing & Rehab (Suffolk County - 2/12/09)
- Mercy of Northern New York (Jefferson County - 7/9/09)
- Loretto Utica Residential HCF (Oneida County - 2/10/10)
- Countryside Care Center (Delaware County - 11/1/10)
- Blossom South Nursing & Rehab Center (Monroe County - 5/31/11)
Next Steps for the SFF Program

- CMS is increasing number of SFF by 20% over a 2 year period.

- NYS will make a recommendation to CMS for the 7th SFF within the next few months.

- CMS and DOH will continue to closely monitor the progress of all SFFs in NYS and impose all applicable enforcement remedies.
Improving Outcomes

• **Systems Improvement Agreements (SIA)** between CMS and some SFFs, which require the homes to take specific steps to address quality of care problems.

• **Quality of care Corporate Integrity Agreements (CIA)** between the Department of Health and Human Services (HHS) Office of Inspector General (OIG) and nursing home corporations, which are intended to bring about quality improvements across the corporations’ homes.

• **Nursing Homes in Need Initiative, (NHIN)** contract with Quality Improvement Organizations (QIO) that requires QIOs to work with a limited number of homes, including SFFs, to improve the care delivered to residents.
Centralized Complaint Intake Program

The Centralized Complaint Intake Program accepts and processes complaints and facility reported incidents.

- Staffed with Registered Nurses
- Hours of operation: 8:30am-4:45pm.
- Voice mail available on off hours
- On call personnel on weekends and holidays
Contacting the Intake Program

- Call the NYS Nursing Home Hotline at 1-888-201-4563

- Email the Hotline at nhintake@health.state.ny.us

- Write a letter to the Hotline at NYSDOH, DRS/SNHCP, Mailstop: CA/LTC, Empire State Plaza, Albany NY 12237
Calls to the Intake Hotline

Types of calls to the Hotline:
- Complaints
- Facility reported incidents
- Inquiries

All calls are logged in and /or triaged:
- On site
- Off site
- No action necessary
- Informational
At the time of intake

- Complainant will report concerns and or complaints and give basic information to the Intake Nurse, who triages complaint.

- The complaint is entered into the Federal Complaint System and assigned a case number.

- Complainant will receive a letter within a few days to confirm receipt of the complaint. This letter contains the case number and the phone number of the assigned investigative unit.
Complainants – Who are they?

- Residents
- Family
- Friends
- Legal Representatives and Guardians
- Ombudsman
- Anonymous (visitors, staff)
- LTC Advocacy Groups
- CMS
- APS, OMIG, OIG, OAG
At the time of intake

- CCIU (Centralized Complaint Intake Unit) staff will discuss the complaint with the complainant, seeking enough information to allow an appropriate triage.

- CCIU staff will ask specific questions required by regulation.

- All complainants receive a letter of acknowledgement.
Triage of complaints

Utilizing policies and regulations, the Intake Nurse makes a determination on triage:

- Whether the complaint requires an on-site investigation and when it will be investigated, or
- Determination of off-site investigation appropriateness, or
- Whether the call is simply informational with no action required.
Triage determination - On Site

An on site complaint gets referred to the investigation unit at the regional office.

- Abuse, mistreatment or neglect is suspected.
- May be a widespread occurrence.
- A regulatory violation is suspected.
- Quality of care or quality of life concerns are evident.
- Death related to negligence or an accident.
- Issues with serious negative outcome or potential for serious negative outcomes.
Triage determination – Off Site

A complaint is triaged as off site, if it is facility reported, less serious in nature and can be accomplished by a “paper review”.

- All admission, transfer, DC cases.
- Single occurrences, eg: accidents or resident to resident abuse.
- Less egregious in nature.
- Department staff reviews facility investigation.
- If a regulatory violation is suspected, or abuse becomes evident, or if interviews need to be done, the case is changed to on site.
A complaint is triaged as a “No action necessary” if there is no regulatory violation being reported, or is informational in nature and may not require investigation. DOH staff have obtained enough information to determine that abuse, neglect did not occur.
Complaint Assignment

Once triage is complete, the case is reviewed by Supervisory staff.

The case will then, be assigned to an investigator in the respective investigation unit. This can be on site or off site.
The Role of DOH

• Determine REGULATORY compliance.
• Determine if abuse, mistreatment or neglect has occurred.
• Determine that quality of care was achieved.
• Determine that a plan to prevent repeat occurrences has been implemented.
Hotline Volume

The Department gets approximately 12,000 contacts to the Hotline each year. (calls, emails, letters).

- An average of 9000 of these become cases.

- The remaining number are referred to other hotlines, entered as INFORMATION, case addenda's and others are inquiries about what nursing homes can and cannot do.
On Site Complaint Survey

Third party or facility reported

- Remains anonymous if third party.
- Investigators may review roster to obtain a sample, based on the complaint, or choose from observations.
- Observation, record review, interviews are methods used in the investigation process.
- The surveyor looks at systems and practices in relation to the complaint.
- Medication issue: The surveyor may observe a med pass
- Abuse or neglect investigation: separate from AG’s investigation.
- Accidents: review recent incident and accident reports
- Physical environment / equipment: physical plant tour is completed.
Off Site Complaint Survey

- Third party or facility reported.
- Investigators contact complainant and facility.
- Document request made to provider for record review.
- Case Resolution Unit staff reviews facility investigation.
- If a regulatory violation is identified, case is referred to Regional Office for on site investigation.
Making a determination regarding the outcome of an investigation

- The investigation process collects information through interview, observation and record review to answer the questions:
  - Was there a regulatory violation?
  - Can we prove that this violation occurred?
  - Is it isolated, patterned or widespread?
  - Did harm occur?
  - Does the situation require a citation?
  - Has the facility taken steps to rectify the situation?
Updates and Revisions

Beginning in October 2011, the Department will begin to accept facility incident reports via internet.

- The Department will issue a list of reportable incidents.
- We anticipate that the majority of facility reported incidents will be off site reviews, with the exception of serious occurrences, requiring immediate response, and abuse, and neglect cases resulting in harm to the resident.
Revisions to Facility Reports

• Facilities will no longer call the hotline to report incidents.

• Information on incidents will be obtained by CCIU accessing the web site, and then entered into ACTS.

• There will be an on line reference manual for clarification of reportable incidents.

• The manual will list “elements” or relevant components, that if present, render the incident reportable.
Incident reporting manual

- Can be accessed online.
- Contains relevant information for each reportable incident.
- Guides investigation by the facility, and lists materials that the facility should have available to surveyors for investigation.
- Contains questions and answers to assist facilities to determine when an incident is reportable and when it is not.
To Summarize the New Process

- The Department has developed an electronic incident reporting system, which will allow nursing homes to report their incidents through the HCS, effective 10/17/11.

- The new form will replace the previous telephone hotline method for reporting incidents.

- The Department has provided an Incident Reporting Manual to clarify the reporting requirements, and help ensure that facilities are reporting incidents required under State and Federal statutes and regulations.

- The manual provides a list of reportable incidents that shall be reported via the HCS.

- The Department’s requirements for reporting incidents are consistent with past reporting requirements.
ONGOING EFFORTS TO IMPROVE QUALITY

- Ensuring the survey has an impact on sustainable improvement in performance.
- Increasing CMS designation as a Special Focus Facilities (SFF). NYS will have 7 SFFs.
- Working with Nursing Homes that have repeat deficiencies and/or serious conditions.
- Expanding use of Directed Plans of Corrections as an improvement tool.
- Holding Leaders Accountable.
What Ombudsmen Offer Surveyors

Regular presence in LTC facilities.

Pre-emptive resolution of quality of care concerns.

Identification of quality of care issues
  - Pre-survey information for the CMS 801

Resource to identify residents for survey interviews.

Knowledge of resident/family council issues.

Resource for supporting evidence related to complaints.

Ability to monitor facility implementation of POC and report to DOH continued violations.
The Ombudsman-DOH Collaboration
Enhances our ability to ensure the provision of quality care with dignity for our long term care residents.

Thank you !!! We look forward to working with all of you!!

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