



Center for Clinical Standards and Quality/Survey & Certification Group

Ref: S&C 17-26-NH

DATE: April 28, 2017

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Notice of Proposed Regulation Changes to Requirements Related to Survey Team Composition and Investigation of Complaints

Memorandum Summary

- **Notice of Proposed Rule Making (NPRM):** The Centers for Medicare & Medicaid Services (CMS) published a proposed regulation Medicare Program; FY 2018 Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities (SNF) Proposed Rule which displayed on the Federal Register on April 27, 2017.
- **CMS Proposed Changes:** CMS proposed four changes to the Survey Team Composition within the NPRM which, include revision of the definitions of “complaint survey” and “abbreviated standard survey,” relocation of requirements related to complaint surveys, and revision of survey team composition requirements as outlined below.
- **The Regulation is available for display on the Federal Register at** <https://www.federalregister.gov/public-inspection>.

Background

On April 27, 2017, the Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities Proposed Rule for FY 2018, SNF Value-Based Purchasing Program, SNF Quality Reporting Program, Survey Team Composition, and Proposal to Correct the Performance Period for the NHSN HCP Influenza Vaccination Immunization Reporting Measure in the ESRD QIP for PY 2020 displayed on the Federal Register with the proposed rule publication date and opening for public comment on May 4, 2017.

CMS has proposed four changes relevant to survey team composition within the regulation under 42 CFR sections 488.30, 488.301, 488.314, and 488.308, to clarify the regulatory requirements for the composition of complaint survey teams and to align regulatory provisions for complaint investigations with the statutory requirements. CMS encourages comments, questions, or thoughts on this proposed rule and the RFI (CMS-1679-P) and will accept comments until June 26, 2017. The proposed rule and the RFI can be downloaded from the Federal Register at: <https://www.federalregister.gov/public-inspection>.

Definition of “Complaint Survey”

The regulation under §488.30 defines “complaint survey” as, “those surveys conducted on the basis of a substantiated allegation of noncompliance, as defined in §488.1.” The proposed change is to add a provision that the requirements of sections 1819(g)(4) and 1919(g)(4) of the Social Security Act (the Act) and §488.332 apply to complaint surveys.

Definition of “Abbreviated Standard Survey”

The regulation under §488.301, defines “abbreviated standard survey” as, “a survey other than a standard survey that gathers information primarily through resident-centered techniques on facility compliance with the requirements for participation. An abbreviated standard survey may be premised on complaints received; a change of ownership, management, or director of nursing; or other indicators of specific concern.” The proposed change is to add a provision that abbreviated standard surveys conducted to investigate a complaint or to conduct on-site monitoring to verify compliance with participation requirements are subject to the requirements of §488.332. Other premises for abbreviated standard surveys would follow the requirements of §488.314.

Complaint Survey Requirements

The regulation under §488.308(e) addresses complaint investigations, but as currently written, it combines special surveys, which are authorized under sections 1819(g)(2)(A)(iii)(II) and 1919(g)(2)(A)(iii)(II) of the Act with the requirements associated with the investigation of complaints, which are governed by sections 1819(g)(4) and 1919(g)(4) of the Act. The proposed change is to relocate the requirements included in §488.308(e)(2) and (e)(3) from under the heading “Special Surveys” to a new subsection, titled, “Investigations of Complaints.”

Survey Team Composition Requirements

The regulation under §488.314(a)(1) requires that surveys be conducted by an interdisciplinary team of professionals, which must include a registered nurse. The proposed revision of this language will specify that these team composition requirements apply only to surveys under sections 1819(g)(2) and 1919(g)(2) of the Act, not to complaint surveys.

Contact: Comments may be submitted electronically through our e-Regulation website at: <https://www.cms.gov/Regulations-and-Guidance/Regulations-and-Policies/eRulemaking/index.html> until June 26, 2017.

Effective Date: Immediately. This policy should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

/s/
David R. Wright

cc: Survey and Certification Regional Office Management

The contents of this letter support actions to improve patient safety and increase quality and reliability of care and promote better outcomes.