CMS
REVISED RULES OF PARTICIPATION

Webinar #2
November 10, 2016
Rebecca J. Bartle, RN, MSN, HFA
Hoosier Owners and Providers for the Elderly

Ref: S&C: 17-03-NH – Training
October 24, 2016

• Need for Training: The Centers for Medicare & Medicaid Services (CMS) is developing an online training for Regional Offices (RO), State Survey Agencies (SA), providers and other stakeholders on the new Nursing Home Regulations.

• Training Content and Availability: The online training will include information about Phase 1 of new Nursing Home Regulations, and will be available to all parties starting November 18, 2016.

• Mandatory Requirement: All Long Term Care (LTC) surveyors are required to complete this training in order to be able to conduct any LTC surveys after November 28, 2016.

• http://surveyortraining.cms.hhs.gov/pubs/ProviderTraining.aspx

• The web training will remain available until July 2017
Per CMS Presentation at Leading Age National Convention (held on 10/30/16)

- **Phase 2 (11/28/17) will include:**
  - New Appendix PP (Interpretive Guidance)
  - New F-Tags (starting at F540+)
  - New Survey Process
    - Combination of QIS and Traditional
    - Sample Selection= 70% offsite; 30% on-site

Questions from Webinar #1

- Do you have any more clarity regarding the governing body being responsible for QAPI?

- *In the past, the board has been giving an annual recap and copies of all the policies that had been adopted over the last year.*
Questions from Webinar #1

- Do you know when CMS will be issuing the regulatory guidance on how to comply to the annual facility assessment?

- Are residents receiving Hospice services exempt from the new 14 day rule for psychotropics?
- *The Hospice resident often receives Ativan Intensol for restlessness and as an adjunct to Roxanol administration. Our facility policy on the administration of psychotropics has always stated "excludes those residents receiving hospice services"*
Questions from Webinar #1

- If the facility is held responsible for ALL lost property, is there any protection for us when "lost or missing items" are reported that are not on the inventory record?

- Same concerns regarding dentures, hearing aids, and glasses - if the item is missing (lost) and we do a thorough but unsuccessful search, how do we know who is responsible for the loss?

Questions from Webinar #1

- Could you review the difference between “acted deliberately” and “intending to inflict injury or harm”? 
Questions from Webinar #1

- Is licensed nurse competency part of Phase 1?

A DEEPER DIVE…….
Resident Rights 483.10 (g)(2)

- The resident has the right to access personal and medical records pertaining to him or herself.

- The facility must provide the resident with access to personal and medical records pertaining to him or herself, upon an oral or written request, in the form and format requested by the individual, if it is readily producible in such form and format (including in an electronic form or format when such records are maintained electronically); or, if not, in a readable hard copy form or such other form and format as agreed to by the facility and the individual, within 24 hours (excluding weekends and holidays); and

- The facility must allow the resident to obtain a copy of the records or any portions thereof (including in an electronic form or format when such records are maintained electronically) upon request and 2 working days advance notice to the facility. The facility may impose a reasonable, cost-based fee on the provision of copies, provided that the fee includes only the cost of:
  - (A) Labor for copying the records requested by the individual, whether in paper or electronic form;
  - (B) Supplies for creating the paper copy or electronic media if the individual requests that the electronic copy be provided on portable media; and
  - (C) Postage, when the individual has requested the copy be mailed.
Changes in Coverage/Rate
483.10 (g)(18)

- Where changes in coverage are made to items and services covered by Medicare and/or by the Medicaid State plan, the facility must provide notice to residents of the change as soon as is reasonably possible.

- Where changes are made to charges for other items and services that the facility offers, the facility must inform the resident in writing at least 60 days prior to implementation of the change.
  - Do you normally have yearly rate increases in January?

Careplans 483.10 (C) (2)

- The right to participate in the development and implementation of his or her person-centered plan of care, including but not limited to:
  - The right to participate in the planning process, including the right to identify individuals or roles to be included in the planning process, the right to request meetings and the right to request revisions to the person-centered plan of care.
Thoughts on Careplan Meetings
(what might be accomplished during these meetings?)

- 483.10 (d) (3)
  - The facility must ensure that each resident remains informed of the name, specialty, and way of contacting the physician and other primary care professionals responsible for his or her care.

- 483.10 (g)(14)
  - The facility must record and periodically update the address (mailing and email) and phone number of the resident representative(s).

Careplan 483.21 (b)(2)(ii)(A)(F)

- An explanation must be included in a resident’s medical record if the participation of the resident and their resident representative is determined not practicable for the development of the resident’s care plan.
Behavioral Health Services (483.40)

- Each resident must receive and the facility must provide the necessary behavioral health care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.
- Behavioral health encompasses a resident's whole emotional and mental well-being, which includes but is not limited to, the prevention and treatment of mental and substance use disorders.

Food from Outside 483.60 (i)(3)

- Have a policy regarding use and storage of foods brought to residents by family and other visitors to ensure safe and sanitary storage, handling, and consumption.
Pharmacist Recommendations

483.45(c) (4)

• The pharmacist must report any irregularities to the attending physician and the facility’s medical director and director of nursing, and these reports must be acted upon.
• Irregularities include, but are not limited to, any drug that meets the criteria set forth for an unnecessary drug.
• Any irregularities noted by the pharmacist during this review must be documented on a separate, written report that is sent to the attending physician and the facility’s medical director and director of nursing and lists, at a minimum, the resident’s name, the relevant drug, and the irregularity the pharmacist identified.

• The attending physician must document in the resident’s medical record that the identified irregularity has been reviewed and what, if any action has been taken to address it. If there is to be no change in the medication, the attending physician should document his or her rationale in the resident’s medical record.

• The facility must develop and maintain policies and procedures for the monthly drug regimen review that include, but are not limited to, time frames for the different steps in the process and steps the pharmacist must take when he or she identifies an irregularity that requires urgent action to protect the resident.
Lab Results 483.50(b)(2)

• Promptly notify the ordering physician, physician assistant, nurse practitioner, or clinical nurse specialist of results that fall outside of clinical reference ranges in accordance with the facility policies and procedures for notification of a practitioner or per the ordering physician’s orders.

REMINDERS
§483.21 Comprehensive Person-Centered Care Planning
(see page 32 of Summary)

- NEW SECTION- Resident Centered Care Plans - Requires facilities to develop a baseline care plan for each resident, **within 48 hours of their admission**, which includes the instruction needed to provide effective and person-centered care.
  
  Including instructions needed to provide effective and person-centered care:
  
  Including initial goals, orders, meds, social services and PASARR recommendations

  **Provide resident/representative with summary** to include initial goals, med, treatments and diet.

§483.21 Comprehensive Person-Centered Care Planning, continued

- IDT- Add a nurse aide and a member of the food and nutrition services staff. Participation is not required to be in-person at the care plan meeting.

- Resident has the right to see the care plan and SIGN care plan after significant changes are made.
§483.21 Comprehensive Person-Centered Care Planning, continued

• Requires access to care plan by any person involved in the implementation of the care plan.

• DISCHARGE SUMMARY- Must now include a reconciliation of all discharge medications with the resident’s pre-admission medications (both prescribed and OTC).

§483.55 Dental Services
(see page 46 of Summary)

• A facility may not charge a resident for the loss or damage to dentures when the loss or damage is the responsibility of the facility.
• Dental referral required within 3 days from the time the loss or damage to dentures is identified unless the facility can document extenuating circumstances.
  • Consider a tracking form
• Facilities must document what they did to ensure that the resident could eat and drink adequately while awaiting dental services.
  • Consider a monitoring form to be utilized by nursing
OTHER NEW RULES
Which affect the Long Term Care Industry

Emergency Preparedness
September 8, 2016

- The Federal Register posted the final rule Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers
- The regulation is effective November 16, 2016.
- Health care providers affected by this rule must comply and implement all regulations one year after the effective date, on November 16, 2017,
Long Term Care Facility

- **Emergency Plan:**
  - Must account for missing residents (existing requirement).
- **Policies and Procedures:**
  - Tracking during and after the emergency applies to on-duty staff and sheltered residents.
- **Communication Plan:**
  - In the event of an evacuation, method to release patient information consistent with the HIPAA Privacy Rule.

- **Additional Requirements:**
  - Generators
  - Share with resident/family/representative appropriate information from emergency plan.

Notice of Interim Final Rule (IFR) Adjusting Civil Monetary Penalties (CMPs)

- **September 08, 2016**
- **S&C: 16-40-NH/HHA/CLIA**

These new CMP amounts apply to any CMP imposed on or after **September 6, 2016** (the effective date of the IFR) for noncompliant conduct that occurred on or after November 2, 2015, regardless of when the noncompliance was identified.
Revised Life Safety Code

- CMS adopted the 2012 editions of NFPA 101 and NFPA 99 fire and safety compliance requirements.

- Final rule published on May 4, 2016
- **Effective July 5th, 2016**
- Enforcement began **November 1, 2016**

Overview

- Existing categorical waivers will go away
- Waiver process will continue as before
- Pre-emptive waivers not permitted
- New categorical waivers in future as needed
- Existing citations compliant with new code
- **New K TAG numbers**
LSC Provider Training Available

- CMS has opened the online surveyor training to providers
- CMS is re-writing SOM to reflect rule updates
- Implements the survey, certification and enforcement regulations of new rule
- Includes information on the survey process, enforcement process, remedies, civil money penalties, program

Where do I go from here?

- Participate in the available CMS Provider Trainings
- Continue to revise policies and procedures; date revisions
- Maintain a record of facility efforts toward compliance, to ease identification of revisions made to comply with new rules
  - When asked, you will be able to denote what you revised and when
Submit Questions

- bbartle@hoosierownersandproviders.org

- Next Webinar- Thursday, December 1, 2016