Article

CMS issues final rule on requirements of participation for nursing homes

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McKnight's

At the end of September, CMS published the final rule revising the health and safety standards that long-term care facilities must meet to participate in the Medicare and Medicaid programs. The rule represents the most comprehensive update to the Requirements for Participation (Requirements) since 1991.

CMS explained that the changes to the requirements are needed keep pace with the changes in the industry and assist in the goal of improving the provision of health care and patient safety. CMS also maintains that the new requirements will reduce procedural burdens for providers.

The rule becomes effective in three phases. The first phase must be implemented by November 28, 2016. The second phase must be implemented by November 28, 2017. The third and final phase must be implemented by November 28, 2019.

At 185 pages in length, the Rule is expansive and cannot be easily summarized. CMS has already begun providing webinars to educate the provider community about upcoming changes. In a recent webinar, CMS stated that it will issue interpretive guidance in mid-November.

In the meantime, providers should begin to review the final rule to initiate internal discussions about its implications on facility operations. Below is a brief summary of the most significant Phase 1 Requirements that providers should pay immediate attention to in order to ensure compliance by the upcoming November 28, 2016 deadline. Note that some sections noted herein are partially implemented in other phases.

Although CMS contends the Phase 1 Requirements are relatively straightforward to implement and require only minor changes to the survey process, providers need to review their policies and procedures and make revisions to ensure compliance.

Perhaps the most controversial provision of first phase is the prohibition on pre-dispute arbitration agreements, which is currently being challenged in court by certain providers and provider associations. The implication of this provision is that facilities are not allowed to enter into pre-dispute arbitration agreements with residents (or their representatives) after November 28, 2016.

Apart from this provision, however, Phase 1 includes many other obligations regarding admissions, assessments, care planning, quality assurance and performance improvement, physician, nursing, dental, behavioral health and ancillary services. The overarching purpose behind these changes is to help the facility better understand its residents and their needs and ensure that the facility is equipped and staffed in a way that enables it to provide the necessary care.

For example, resident assessments have been expanded to include behavioral health issues and also reach beyond measuring resident needs to also include assessment of the resident's strengths, goals, life history and preferences. Also, comprehensive resident centered care plans will require specialized services based on the

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pre-admission screening and resident review and expanding the inter disciplinary team as well as discharge planning documentation.

Facilities must all provide basic life support and ensure staff is appropriate trained in CPR. With respect to quality assurance and performance improvement, as a first step, facilities must update their policies to reflect new committee member requirements. Finally, to ensure staff is up to date on many of these changes, CMS introduced new requirements regarding abuse and dementia care training as well as training for feeding assistants.

In conclusion, the new requirements have very broad implications on facility operations and administration and over the next three years, facilities will need to allocate additional resources to ensure compliance. We suggest keeping an eye out for guidance over the next few weeks and taking steps to be proactive in terms of updating operations, and policies and procedures.

To read the full article, click here.

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