



Weekly Roundup

...Reporting the state and national long term care news

Please disseminate the relevant information contained in this week's edition of the Weekly Roundup to the appropriate department.

- Administration Nursing Dietary Activities Social Services
 Rehabilitation Housekeeping Maintenance Laundry

Friday, October 21, 2011

ANHA NEWS

ANHA Express Sympathy

ANHA expresses sympathy to the family of Evelyn Hardy who passed away this week. Evelyn and her late husband Lyman C. Hardy were owners of LaRocca Nursing Home in Tuscaloosa for many years. Evelyn was director of nursing at LaRocca, served on the Alabama Board of Examiners of Nursing Home Administrators and was elected to the Alabama Nursing Hall of Fame. Visitation is planned for Sunday, October 23 from 6:00 p.m. to 8:00 p.m. at Heritage Chapel Funeral Home in Tuscaloosa. The funeral is Monday, October 24 at 11:00 a.m. In lieu of flowers, the family requests that donations be made to the Evelyn Wurm Hardy Scholarship at the Capstone College of Nursing at the University of Alabama.

ANHA MDS 3.0 Webinar Recording Released

Please visit the link below to listen to the recording from the September 27, 2011, presentation regarding changes to MDS 3.0.

http://wm.yourcall.com/ANHA/ANHA_Magdon_092711.wmv

To view the recording, click the link and Windows Media Player will open and begin playback.

Section Q Update

All facilities are encouraged to review the handout from Marilyn Chappelle's presentation at the 2011 ANHA Annual Convention. Ms. Chappelle covered the process now in place for Section Q. Also, the Discharge Planning Checklist has been updated. *The presentation and the newly revised Discharge Planning Checklist are attached.*

“Restorative Nursing in Nursing Homes” Educational Seminar: November 30

Please mark your calendars for November 30, 2011, as ANHA will present a seminar entitled “Restorative Nursing in Nursing Homes.” This seminar will be held at The Wynfrey Hotel in Birmingham. The seminar will begin at 8:30 am and conclude at 4:30 pm. This seminar has been approved for 6 hours of continuing education for nursing home administrators. It has also been approved for 7.2 contact hours for nurses. *Please see the attached flyer for more information.*

NATIONAL NEWS

Proposed Changes to Use of Consultant Pharmacist

On Tuesday, October 11, 2011, the Centers for Medicare and Medicaid Services (CMS) published a proposed rule in the Federal Register (FR). This memo is related to pages 63038 – 63041 (*attached*) which focuses on the Independence of Long Term Care Consultant Pharmacists (§463.60). Following is a summary of the relevant section of the proposed rule as well as the American Health Care Association's (AHCA) proposed next steps and their requests of you.

Most importantly, they are asking for your (1) suggestions/recommendations regarding how to address the concerns identified by CMS so an “independent” pharmacist would not be required; and (2) comments to the specific questions that CMS poses related to consultant pharmacists in the Federal Register. Please send your comments to: lbentley@ahca.org by **November 30, 2011.**

Summary:

1. CMS is asking for comments and **not** proposing changes at this time
2. The tone and tenor is that facilities must hire an independent pharmacist (defined as independent of the pharmacy filling the prescription) by January 2013 but do not specifically propose such rule change in FR. Looking for comments on this idea.
3. CMS is requesting comments about the relationship of consultant pharmacist hired/contracted by nursing home and the pharmacy filling the prescriptions; especially
 - a. when the pharmacist is employed by the pharmacy
 - b. when recommendations are related to drugs with rebates
 - c. when recommendations for drugs are not “appropriate for nursing home resident”
 - i. “drugs that are inappropriate for LTC residents”; or
 - ii. “the use of unnecessary or inappropriate therapeutic substitutions”
 - iii. “drugs that are not in the best interest of the nursing home resident”
 - d. related to the use of antipsychotics
 - i. “Incentives that exist between consultant pharmacists and LTC pharmacies and drug manufacturers can influence” and consultants’ recommendations to physicians
4. CMS is requesting comments about the specific relationship that should be permitted among the consultant pharmacist, nursing facility and the pharmacy both when there is and is not a potential conflict of interest.
5. If CMS implements a rule change related to consultant pharmacists, should it be phased in for rural facilities?
6. CMS requests suggestions for alternative approaches to requiring an independent pharmacist “that would address the protections that would be implemented to reduce the risk of conflict of interest due to the [current] lack of independence of the consultant pharmacist.”
7. CMS requests comments on best practices related to drug regimen review.
 - a. Current consultant pharmacists appear to perform upwards of 60 resident drug regimen reviews in a single day. CMS states “We suspect this rate may be too high...”

Comments due to CMS on December 12th, 2011.

Issue the proposal is trying to solve:

Consultant pharmacists who are employed by the pharmacy filling the prescription have a conflict of interest between serving the client/Medicare and making profit for their employer (the pharmacy).

Background:

1. Nursing homes are required to have a consultant pharmacist (§ 483.60 pharmacy services: section B service consultation) and must employ or obtain services from a pharmacist who must:
 - a. Provides consultation on all aspects of provision of pharmacy services in facility (defined in State Operations Manual: see #2 below)
 - b. Establishes a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable accurate reconciliation
 - c. Determines that drug records are in order and an account of all controlled drugs is maintained and periodically reconciled
2. Nursing homes cited for failure to comply with the following
 - a. Consultant pharmacist must monitor the drug regimen of each resident at least monthly
 - b. Pharmacist must report any “irregularities” to attending MD and director of nursing and these reports must be acted upon. This would include
 - i. lack of diagnosis to support drug (e.g. antipsychotic drugs)
 - ii. drug to drug interactions
 - iii. lack of testing to monitor drug (e.g. INR for Coumadin, or potassium for Lasix)
 - iv. Appropriate therapeutic dosage and if weaning off drugs is being considered
 - v. Recommendations for drug initiation as needed
3. Pharmacy contracting with nursing home to deliver medications usually offers “free” or “discounted” consultant pharmacist to meet regulations
4. NJ has rule that requires nursing facilities to hire an independent pharmacist. Until July 2010, the Medicaid reimbursement averaged \$0.40 PPD.

Impact on AHCA members:

1. If rule required hiring an “independent” pharmacist; it would
 - a. increase costs and
 - b. in rural areas access to pharmacist may be a problem

Proposed AHCA Approach:

1. AHCA requests members’ recommendations that would minimize conflict of interest and also allow the current arrangement of using the dispensing pharmacy consultant. There would be enhanced safeguards to reduce or protect the conflict of interest that may be inherent in such a relationship.
 - ✓ **Please provide AHCA with recommendations (By Nov. 30, 2011) that you would like included in the multiple solutions that they can submit to CMS**
2. AHCA will submit multiple solutions to CMS and priority rank the recommendations.

Pioneer Network Releases Dining Practice Standards

The Pioneer Network has announced that its Food and Dining Clinical Standards Task Force: A Rothschild Regulatory Task Force has finalized new Dining Practice Standards agreed to by the following 12 national clinical standard-setting associations:

- American Association for Long Term Care Nursing (AALTCN)
- American Association of Nurse Assessment Coordination (AANAC)
- American Dietetic Association (ADA)
- American Medical Directors Association (AMDA)
- American Occupational Therapy Association (AOTA)
- American Society of Consultant Pharmacists (ASCP)
- American Speech-Language-Hearing Association (ASHA)
- Dietary Managers Association (DMA)
- Gerontological Advanced Practice Nurses Association (GAPNA)
- Hartford Institute for Geriatric Nursing (HIGN)
- National Association of Directors of Nursing Administration in Long Term Care
- National Gerontological Nursing Association (NGNA)

These nationally agreed upon new food and dining standards of practice support individualized care and self-directed living versus traditional diagnosis-focused treatment for people living in nursing home. The document includes the following new Standards of Practice:

- Individualized Nutrition Approaches/Diet Liberalization
- Individualized Diabetic/Calorie Controlled Diet
- Individualized Low Sodium Diet
- Individualized Cardiac Diet
- Individualized Altered Consistency Diet
- Individualized Tube Feeding
- Individualized Real Food First
- Individualized Honoring Choices
- Shifting Traditional Professional Control to Individualized Support of Self Directed Living
- New Negative Outcome

The New Dining Practice Standards document reflects evidence-based research available to-date as well as current thinking which is in some cases in advance of research - thus a Research Agenda also came out of this work and will be shared by Pioneer Network in the near future for anyone to refer to and consider. The importance of these new agreed upon clinical standards cannot be overstated as food and dining are an integral part of individualized care and self-directed living for people living in nursing homes.

Pioneer Network will submit the new Dining Practice Standards to CMS, FDA, CDC and the long term care community at large. It is anticipated that CMS will refer to these new agreed upon standards of practice within long term care interpretive guidance where they fit as CMS usually refers to the current standards of practice set by the clinicians who work within the long term care field. It is the goal of the Task Force that surveyors, clinicians and interdisciplinary team members will put these new standards into practice in order to continue their efforts to improve quality of life for those living in nursing homes across the country. *Please see the attached document for more details.*

OIG Releases Work Plan

The Office of Inspector General (OIG) has posted its 2012 Work Plan (<http://oig.hhs.gov/reports-and-publications/workplan/index.asp>) which sets forth the various projects it will address during FY 2012 through its Office of Audit Services, Office of Evaluation and Inspections, Office of Investigations and Office of Counsel to the Inspector General. The Work Plan includes projects planned in each of the HHS major entities including the Centers for Medicare & Medicaid Services (CMS), public health agencies, the Administrations for Children & Families and the Administration on Aging. The Work Plan also details projects related to issues that cut across departmental programs, including state and local government use of federal funds, as well as the functional areas of the Office of the Secretary of Health & Human Services (HHS).

OIG's 2012 Work Plan is particularly important because many projects planned are of interest to nursing homes. Under "Nursing Homes," OIG plans to look at Medicare requirements for quality of care in SNFs; safety and quality of post-acute care for Medicare beneficiaries; nursing home compliance plans; oversight of poorly performing nursing homes; nursing home emergency preparedness and evacuations during selected natural disasters; Medicare part A payments to SNFs; hospitalizations and re-hospitalizations of nursing home residents; and questionable billing patterns during non-Part A nursing home stays.

Summary of CMS Medicaid RAC Final Rule

CMS has published the Medicaid RAC final rule in the Federal Register on September 16, 2011 at 76 Federal Register 57808. This final rule implements section 6411 of the Patient Protection and Affordable Care Act (ACA), and provides guidance to States related to Federal/State funding of State start-up, operation and maintenance costs of Medicaid Recovery Audit Contractors (Medicaid RACs) and the payment methodology for state payments to Medicaid RACs. States will be required to implement their RAC programs by January 1, 2012.

The American Health Care Association has reviewed the final rule (*a copy of the Federal Register is attached.*) In the attached memorandum, AHCA provides a summary of its key provisions. AHCA submitted extensive comments on the CMS Medicaid RAC proposed rule. Many of the comments were derived from AHCA's long experience with the Medicare RAC program. AHCA was deeply involved in successful advocacy for improvements in that program after a devastating RAC demonstration period. CMS was responsive to many but not all of their concerns. The agency, however, did take seriously AHCA's comments on the need to learn from the Medicare RAC experience. CMS has adopted several of the protections and improved processes achieved by AHCA in the permanent RAC program and recommended by AHCA to be part of the Medicaid RAC program.

There is a need, of course, to stay vigilant. AHCA hopes to stay informed as to the actual development and operation of this program in the states. AHCA will learn how the program is being implemented and, if necessary, again engage CMS in improving the program.

Vaccinate Early to Protect Against the Flu **2011 – 2012 Influenza Vaccine Prices now Available**

The Centers for Disease Control and Prevention recommends a yearly flu vaccination as the first and most important step in protecting against flu viruses. Remind your patients that annual vaccination is recommended for optimal protection. Medicare pays for the flu vaccine and its administration for seniors and other Medicare beneficiaries with no co-pay or deductible. Take

advantage of each office visit and start protecting your patients as soon as your 2011-2012 seasonal flu vaccine arrives. And don't forget to immunize yourself and your staff. Get the Flu Vaccination – Not the Flu. Remember – Influenza vaccine plus its administration are covered Part B benefits. The Centers for Medicare and Medicaid Services (CMS) has posted the 2011-2012 seasonal influenza vaccine payment limits at:

http://www.CMS.gov/McrPartBDrugAvgSalesPrice/10_VaccinesPricing.asp

Note that influenza vaccine is NOT a Part D-covered drug. For information about Medicare's coverage of the influenza vaccine and its administration, as well as related educational resources for healthcare professionals and their staff, visit

http://www.CMS.gov/MLNProducts/35_PreventiveServices.asp.

Notice of Workers' Right to Organize must be Posted by January 31, 2012

The NLRB announced that it will delay the implementation date of its employee rights notice posting from November 14, 2011, until January 31, 2012. The NLRB says that the reason for the delay is to provide more time to "educate" employers about the rule.

As a reminder, The National Labor Relations Board (NLRB) has published a final rule requiring employers to post a notice containing information about an employee's right to union organizing. Employers must begin posting these notices by January 31, 2012.

The NLRB has created a fact sheet describing where the poster has to be posted, along with other requirements including the size of the poster, and requirements for employers if they download the poster from NLRB's website.

Copies of Notices will be available from the NLRB, in multiple languages. Failure to comply with this rule is an unfair labor practice (ULP) violation. Although there is no civil penalty attached, if an employer is not in compliance during a union organizing drive, there could be other consequences to an employer. Employers are also required to post the notice on its internet or intranet sites if personnel rules and policies are customarily posted there. *Please visit <http://www.nlr.gov/news-media/fact-sheets/final-rule-notification-employee-rights%20> to obtain a copy of the fact sheet.*

FACILITY NEWS

Ridgewood Health Care Center Earns Deficiency Free Health & Life Safety Code Surveys

Ridgewood Health Care Center recently earned deficiency free health and life safety code surveys! Kathy Smothers is the Administrator and Cindy Shifflett is the Director of Nursing. The facility is owned by Preston Health Services and is located in Jasper. Congratulations to the staff of Ridgewood Health Care Center on this outstanding accomplishment!

Altoona Health & Rehab Earns Deficiency Free Health Survey!

Altoona Health & Rehab recently earned a deficiency free health survey! Linda Bigelow is the Administrator and Brenda Watwood is the Director of Nursing. The facility is owned by Altoona Health & Rehab, Inc. and is located in Altoona. Congratulations to the staff of Altoona Health & Rehab on this outstanding accomplishment!

TLC Nursing Center Residents Celebrate 65th Anniversary



Bud and Flora Ingles recently celebrated their 65th wedding anniversary at TLC Nursing Center in Oneonta. Mr. and Mrs. Ingles celebrated with a large group of family members, friends, facility staff and fellow residents. Mr. Ingles stated that his wife is still as beautiful as the day he married her.

Andalusia Manor Hosts Community at Fall Festival



Andalusia Manor recently held its annual Fall Festival. The community event featured great food, gospel music, lots of fun games and great prizes. A new attraction this year was the dunking booth. Employees and visitors took shots at dunking several staff members. Residents enjoyed listening to music while watching children play games and slide down the giant slide. The facility thanks everyone who helped make this year's event possible.

Generations of Vernon Celebrates LPN Week



Generations of Vernon celebrated Licensed Practical Nurses' Week by recognizing the facility's LPNs. The residents presented each LPN with a balloon, card and bag of candy to show their appreciation. Pictured are some of the LPN staff members at Generations of Vernon.

SAVE THE DATES: EDUCATIONAL SEMINARS

“2011 Nursing Home Survey Process Update” Educational Seminar: November 29

Please mark your calendars for November 29, 2011, as ANHA will present a seminar entitled “2011 Nursing Home Survey Process Update.” This seminar will be held at The Wynfrey Hotel in Birmingham. *More information regarding this seminar will be provided in the following weeks.*

“Legal Compliance in Nursing Homes” Educational Seminar: January 19

Please mark your calendars for January 19, 2012, as ANHA will present a seminar entitled “Legal Compliance in Nursing Homes.” This seminar will be held at The Wynfrey Hotel in Birmingham. *More information regarding this seminar will be forthcoming.*

OTHER NEWS

Alabama Medicaid Agency Admission Criteria

Please note that Chapter 10 of the Alabama Medicaid Agency Nursing Home Administrative Code has been updated. The Alabama Medicaid Agency is providing clarification on Rule No. 560-X-10-.10. Admission Criteria. *(Copy attached.)*

ANHA is working with Medicaid on the changes needed to Form 161. We anticipate that a Provider Notice as well as a new Form 161 will be coming from Medicaid shortly.

Nursing Home License Renewals

Your facility should have received a letter from the Alabama Department of Public Health stating that license renewals were being suspended. Per ANHA’s phone conversation with ADPH’s attorney, it appears this suspension is set to be lifted soon. Mainly, ADPH is waiting for clarification on how to meet the new immigration laws and is in the process of structuring its forms accordingly. We were told this short suspension should not interfere with regular renewals. ANHA will keep you updated as we learn more.

Medicare Part D Open Enrollment Began October 15: Changes for 2011

Most of us in the nursing home industry are elated that Medicare Part D open enrollment begins and ends earlier this year. With an open enrollment period of October 15, 2011 through December 7, 2011, we can identify and assist those residents who need to change plans and have the changes made before the busy holiday season. As in previous years, some plans will remain as LIS (low income subsidy) plans, some plans have been added and some plans will lose their LIS status.

For 2012, Alabama will have 12 plans available as LIS plans. Of the 12 plans which will be available three plans are new for 2012. Two of the LIS plans for 2011 will not be available as LIS plans in 2012.

The 2012 LIS plans are as follows:

***Aetna CVS Prescription Plan (New for 2012)**

Cigna Medicare Plan One

Community Care Basic

CVS Caremark Value

Envision RxPlus Silver

***First Health Premier (New for 2012)**

Health Net Orange Option 1

HealthSpring Prescription Plan

Humana Walmart Preferred

Medco Medicare Prescription-Value

***United American Select (New for 2012)**

Windsor Rx

The 2011 plans which will no longer be available as LIS plans are as follows:

Advantage Star Plan by RxAmerica

WellCare Classic

As in all previous years, if you have residents who are enrolled in one of the two plans which will no longer qualify as LIS plans, it will be necessary for you to assist the resident in choosing another LIS-qualifying plan for 2012. Residents who stay in one of the two non-LIS plans will be billed for the difference in the LIS benchmark amount and the actual premium amount for the plans. These “excess premiums” will have to be reported to the Medicaid District Office and budgeted as a health insurance premium.

In years past we have experienced problems with enrolling individuals into the current year’s plan once open enrollment began. The Medicare website now offers an option to default back to the 2011 plan information when enrolling new nursing home residents into plans for 2011. When enrolling for 2011 you should be mindful of the plans which will no longer be LIS plans for 2012 and avoid enrolling the resident into one of the two plans which will lose LIS status for 2012. *ANHA thanks Associate Member Healthcare Compensation Solutions for its contributions to this article.*

Nurse Aide Abuse Registry

Please note that the following individual has been placed on the Alabama Nurse Aide Abuse and/or Sanction Registry. This individual is prohibited from working in any long-term care facility. To check nurse aides, you can use the nurse aide web site at www.adph.org (Click on Contents A-Z - located in the dark blue at the top of the screen - then Click on Nurse Aide Registry - then Click in the white box and type in the Social Security Number of the person you are trying to find. Be sure and include the dashes in the SSN.)

<u>Name</u>	<u>Effective Date</u>
Linda Mims	10/17/2011

CALENDAR OF EVENTS

<u><i>Date</i></u>	<u><i>Event</i></u>	<u><i>Location</i></u>	<u><i>Time</i></u>
October 26	ANHA Facility Standards Committee Meeting	ANHA Offices Montgomery	1:00 p.m.
November 14	ANHA Executive Board Meeting	Ross Bridge Hoover	9:00 a.m.
November 29	“Nursing Home Survey Process Update 2011” Seminar	The Wynfrey Hotel Birmingham	8:30 a.m.
November 30	“Restorative Nursing in Nursing Homes” Seminar	The Wynfrey Hotel Birmingham	8:30 a.m.

Alabama Nursing Home Association
4156 Carmichael Road ♦ Montgomery, AL 36106 ♦ PH: (334) 271-6214 ♦ FAX: (334) 244-6509

WEB SITES:

Alabama Nursing Home Association <http://www.anha.org>
AL Board of Examiners of Nursing Home Administrators <http://www.alboenha.state.al.us>
AL Dept. of Public Health <http://www.adph.org>
CMS <http://cms.gov>