3-17-25 Weekly Clinical Update

Well, another delay in the regulation revisions, and perhaps not the last one. Published "experts" seem to think this delay may not benefit providers as much as it benefits the surveyors as it gives them more time to become more educated on the changes in the guidance. If you want to know the exact education/training the surveyors are receiving, go to https://qsep.cms.gov/. You will find the trainings that the surveyors are receiving on all aspects of regulations.

On Friday, CMS issued a QSO letter rescinding QSO-23-03 which was related to timely use of available COVID-19 therapeutics, especially for "high-risk" persons. Interestingly enough, they issued the memo on 3-14-25 but dated it 1-20-25 (the date of the President's Executive Order).

With all that said, you are strongly encouraged to look at a few areas of the revisions that may not be changed prior to implementation:

- Admission Agreements cannot require a 3rd party guarantor for payment.
    - Facilities are **required to determine their capacity and capability to care for the residents they admit**. Therefore, according to guidance in Appendix PP, facilities should not admit residents whose needs they cannot meet **based on their Facility Assessment**. Once a resident is admitted, the facility must permit each resident to remain in the facility, unless they meet one of the discharge and transfer reasons listed above.
- Transfer & Discharge
    - Removal of terms of "facility-initiated" & "resident-initiated discharges so check you discharge/transfer policies to ensure that verbiage has been removed
    - If a resident is sent emergently to the hospital, facility **must ensure the contact information for the practitioner responsible for the resident's care is sent along with the resident**.
    - Facility must ensure there is **documentation to support the reason for discharge**. For example, if a facility's reason for discharge is related to the behaviors of the resident, there should be documentation to support this reason for discharge. In addition, the behaviors should be carefully care planned.
    - If behaviors are cited as the reason for discharge, facility **should do a Root Cause Analysis (RCA) to ensure they have attempted interventions to decrease the behaviors**.

    - Discharge/transfer notices must be provided in a written format; a **verbal notification of discharge does not meet the requirements**.
- Chemical Restraints/Unnecessary Psychotropic Medication
    - Emphasizes **psychotropic medications should be the last resort for treatment**.
    - There must be documentation that the facility has **attempted behavioral (i.e., nonpharmacological interventions)** and that these interventions have been **deemed clinically contraindicated or unsuccessful.**
    - **Prior to initiating or increasing a psychotropic medication, the resident must be informed of the benefits, risks, and alternatives for the medication and the resident has the right to accept or decline the initiation or increase of a psychotropic medication. Requires Informed Consent from resident/representative.**
    - Required Documentation
        - The **indications for initiating, maintaining, or discontinuing medication(s), as well as the use of non-pharmacological approaches.**
        - The above interventions are determined by an evaluation of the resident's physical, behavioral, mental, and psychosocial signs and symptoms to identify and **rule out any underlying medical conditions**. This includes an assessment of relative benefits and **risks and the preferences and goals for treatment**.
        - The resident/representative was informed of the benefits, risks, and alternatives for the medication, including any block box warnings for psychotropic medication **in advance of initiation or increase of medication**.
        - Resident **behaviors** (whether they are "usual" for the resident), interventions to manage the behavior.
        - **Effectiveness of the intervention**.
        - **Reason that a nonpharmacological dose is clinically contraindicated**.
        - Review for **gradual dose reduction** (GDR) of any psychotropic medication, and results of any GDR attempts. If a GDR is medically contraindicated, this must be documented by the resident's medical provider.
            - Querying a medical provider to **obtain a diagnosis for the indication of the use of a medication is not sufficient, as diagnoses alone do not necessarily warrant the use of**

psychotropic medications. **CMS notes that psychotropic medications should be the last resort for treatment.**

- Mental Disorders should be diagnosed, using evidence-based criteria, such as the current version of the **Diagnostic and Statistical Manual of Mental Disorders (DSM), and documented in the resident's medical record**
- Materials for resident/family education may be available on the manufacturer's websites, or you may collaborate with your consultant pharmacist for materials **(so a signed Informed Consent isn't enough…include copy of information provided)**

- Professional Standards & Medical Director
  - They also updated the deficiency categorization and **directed surveyors that a lack of documentation to support a schizoaffective disorder and the use of an antipsychotic medication without indication would represent an IJ at F658 and F605.**
  - Clarification that the **medical director is responsible for intervening when medical care is inconsistent with current accepted standards of care.**
  - Facility should **ensure medical directors are involved in the implementation of resident care policies, such as ensuring physicians and other practitioners adhere to facility policies on diagnosing and prescribing medications and intervening when a practitioner is providing care that is inconsistent with current professional standards of practice.**
- Accuracy/Coordination/Certification & Comprehensive Assessment After Significant Change
  - Aligned language with **Section GG of the MDS**
  - **If the surveyor identifies a pattern (i.e., three or more residents) of inaccurate MDS coding by staff who completed, signed, and certified to the accuracy of the portion of the assessment they completed, and there are indications or concerns that the individual who completed the section(s) in question knew the coding was inaccurate, a referral should be made to the Office of Inspector General for investigation of falsification** per §483.20(j).
  - **Querying a medical provider to obtain a diagnosis of schizophrenia alone for capture on the MDS is not sufficient.**
  - **Establish a process for monitoring significant changes in status for ADLs**
- QAPI
  - New Definition
    - *"Health equity" refers to the attainment of the highest level of health for all people, where everyone has a fair and just opportunity to attain*

their optimal health regardless of race, ethnicity, disability, sexual orientation, gender identity, socioeconomic status, geography, preferred language, or other factors that affect access to care and health outcomes. From the CMS Framework for Health Equity, April 2022, https://www.cms.gov/about-cms/agency-information/omh/health-equity-programs/cmsframework-for-health-equity

- **Surveyors must now ask the medical director if they are aware of each systems-level area of non-compliance identified.**
- Begin to determine what reports your facility plans to use when reviewing resident demographics. Examples of reports may include, but are not limited to:
  - SNF QRP Reporting
  - Resident demographics from Section A of the MDS
  - Facility specific demographic tracking lists, based upon the population identified in the Facility Assessment

- Quality of Life & Quality of Care
  - CPR
    - This includes that **training may be held in a physical or virtual instructor-led setting by accepted national standards**
    - **Conduct semi-annual CPR drills across all shifts.**
      - Verbalization of **how to verify the resident's code status**.
      - Providing basic life support to persons who require emergency life support, including **contacting emergency support services (EMS), CPR, use of the nearest AED and transition of care to EMS.**
      - Conduct a **post-demonstration debrief with staff** who participated in the drill, including a summary of the emergency drill, an evaluation of the emergency response and discussion of applicable facility policies.
  - Pain Management
    - **Added definition for acute, chronic, and subacute pain** definitions to align with CDC definitions.
    - **Opioid treatment for pain needs to be appropriately assessed and individualized** for each resident
    - Emphasizes the resident rights to be informed about the risks and benefits of the proposed treatment and directs surveyors to F552-

Resident Rights for concerns so **need an Informed Consent signed for opioids at the very least.**
        - **Must have non-pharmacological interventions in CP & implemented along with effectiveness**
    - Accidents Critical Element Pathway
        - Conduct **routine audits** of:
            - **All bed rails** to ensure they were applied securely according to the manufacturer's instructions
            - **Floors to ensure they are free from hazards** that can cause falls, such as spilled liquids, slippery areas, uneven flooring, or debris on the floor
            - **Water temperatures**, using a thermometer, to ensure water in resident areas is less than 100 degrees Fahrenheit (37 degrees Celsius)
        - Provide **staff education** on the following topics:
            - **Smoking, or use of electronic cigarettes, including safe storage**
            - **Policies surrounding caring for residents with SUD**
            - **Resident-to-resident altercations**
    - Physical Environment
        - Allows facilities that receive approval of construction from State or local authorities or are newly certified after November 28, 2016, with two single occupancy rooms with one bathroom to meet the bedroom and bathroom facility requirements without undergoing major rehabilitation.
- PBJ
    - Surveyors will review PBJ Staffing Data Report to evaluate if facility failed to do any one of following:
        - **Submit required staffing information** based on payroll data in uniform format
        - **Complete data for entire reporting period** such as hours paid for all required staff
        - **Provide accurate data** OR
        - **Provide data by required deadline**
    - **Failure to submit PBJ will result in F851 deficiency at F scope/severity**
- Infection Prevention & Control

- Added EBP to F880 which was already added to guidance via QSO-24-08 C:\Users\admin\Dropbox\LICA-MedMan\Consulting Reports\Presbyterian Manors\2025 Virtual Webinars\Preparing for 2025 Regulatory Changes\CMS added examples of deficiency categorizations related to the spread of COVID-19.

Whew…it's a lot and it changes a lot of the surveyors' processes. And the changes may not be over based on the changes in leadership in HHS and CMS. Dr. Oz had a committee interview on Friday, so the process is finally going. We will see what happens next. This whole survey process is turning from a "novel" to a "mystery" in many ways.