



NURSING HOME POLICY NEWS

September 7, 2011

STATE NEWS

DHMH Issues Memo on Quarterly Overpayment Self-Reporting Process

On August 26th, DHMH - Division of Recoveries and Financial Services released a memo on observations regarding the Quarterly Overpayment Self-Reporting Process. The memo can be downloaded at <http://dhmh.maryland.gov/mma/drafs/index.html>.

Update on NH Eligibility Applications

As previously reported, new initial and redetermination applications are in effect. Initial applications should continue to be printed on yellow paper and redetermination applications on green paper. DHR is expecting a new shipment of initial applications to be delivered to its warehouse this week. It is unclear when a shipment of the redeterminations will arrive. If you need printed copies of the initial applications, please forward to me via email (dkauffman@lifespans-network.org) your facility name, address and contact person. You can also continue to print the applications yourself at your facility on the appropriate color paper. If you need the electronic versions, please let me know. Lastly, DHR is currently testing a fill-able application, which should go into effect within the next two weeks. As soon as it is finalized, LifeSpan will send out an alert.

OHCQ Releases MOLST Transmittal

On August 29th, OHCQ released a transmittal providing an overview of the new MOLST form, effective October 1, 2011, and directing providers to the new MOLST website. The transmittal can be downloaded at http://dhmh.maryland.gov/ohcq/regulated_programs/ltc_transmittals.htm.

MBON Satisfaction Survey

LifeSpan continues to hear problems regarding the Maryland Board of Nursing. The Board is currently under review by the Department of Legislative Services (staff to the Maryland General Assembly). The Board has posted on its website a Customer Satisfaction Survey. Please take a few minutes and have your staff complete this important survey. The results of this survey will be incorporated into the Department's review. The survey can be accessed at www.mbon.org.

Don't Miss LifeSpan's NH Peer-to-Peer on September 14th

On September 14th from 1-3PM, Nancy Grimm, Director, OHCQ, and members of her staff will be presenting at LifeSpan's Nursing Home Peer-to-Peer. As always, this is a free event for LifeSpan members. Registration is required. If you haven't registered yet, please register at www.lifespan-network.org.

FEDERAL NEWS

New Issue Brief on the Implications for Medicare

The Kaiser Family Foundation has released an issue brief examining the potential impact of the Budget Control Act of 2011 and the affect it could have on the Medicare program, health plans and providers and the program's beneficiaries. The brief can be downloaded at <http://www.kff.org/medicare/8216.cfm>.

Medicare Contractor Provider Satisfaction Survey Results Available

The results of the sixth annual Medicare Contractor Provider Satisfaction Survey (MCPSS) conducted by the Centers for Medicare & Medicaid Services (CMS) are now available. This survey offers Medicare FFS providers an opportunity to give CMS feedback on their satisfaction, attitudes, perceptions and opinions about the services provided by their respective contractor. https://www.cms.gov/MCPSS/downloads/MCPSS_Public_Report.pdf.

Recent NLRB Activity

The National Labor Relations Board (NLRB) has issued a final rule requiring employers to post notices informing employees of their rights under the National Labor Relations Act, effective November 14, 2011. The NLRB has posted a Fact Sheet with additional details about the notice requirements of the rule at <https://www.nlr.gov/news-media/fact-sheets/final-rule-notification-employee-rights>. Copies of the notice will be available on the NLRB website and from NLRB regional offices by November 1st.

The NLRB has also recently issued two decisions. The first, *Specialty Healthcare*, Case 15-RC-8773 (August 26, 2011) will make it easier for smaller employee groups to organize in a health care setting. In this case, the NLRB found that CNAs at a nursing home may comprise an appropriate bargaining unit without including all other non-professional employees. As a result, employees of long term care facilities will be subject to a “community of interest” standard such that if an employer argues that a proposed bargaining unit inappropriately excludes certain employees, the employer will be required to prove that the excluded employees share “an overwhelming community of interest” with employees in the proposed unit. The practical effect of the decision is that there likely will be multiple bargaining units within a facility based on job classifications.

The second, *Lamons Gasket Co.*, Case 16-RD-1597 (Aug. 26, 2011) will make it more difficult for employees to decertify their unions. In this case, the NLRB held that a union decertification

petition by employees will be barred for a “reasonable period of time” after voluntary recognition of union representation by their employer. Under a previous decision by the NLRB, such a petition could be filed 45 days after an employer and union agreed to the terms of voluntary recognition of union representation. Such petitions allow employees objecting to the representation to seek an election by secret ballot to decertify the union representation. Under the *Lamons Gasket* decision, employees would now have to wait up to a year before submitting a decertification petition. The effect of the NLRB’s decision in the case will be to make it more difficult for employees to challenge a union’s status as their exclusive bargaining representative in the workplace.

CMS Updates

- S&C: 11-35 (August 12, 2011) - Mandate of Section 6121 of the Affordable Care Act for Nurse Aide Training in Nursing Homes
http://www.cms.gov/Surveycertificationgeninfo/downloads/SCLetter11_35.pdf.
- S&C: 11-38 (September 7, 2011) - Compliance with Food Procurement Requirement for Nursing homes with Gardens Producing Foods for Residents (attached).
- MM7522 – Medicare Part A Skilled Nursing Facility (SNF) Prospective Payment System (PPS) Pricer Update Fiscal Year (FY) 2012
<http://www.cms.gov/MLN MattersArticles/Downloads/MM7522.pdf>.
- Are You Ready? The United States Healthcare Industry is transitioning to Version 5010 on January 1, 2012 and ICD-10 on October 1, 2013. Check out www.cms.gov/ICD10. Here is a recently released FAQ on ICD-10 Transition Basics <http://www.cms.gov/ICD10/Downloads/ICD10FAQs.pdf>.
- MDS3.0 RAI Manual Updates:
https://www.cms.gov/NursingHomeQualityInits/45_NHQIMDS30TrainingMaterials.asp.

Please let me know if you have any questions concerning the material in this update. As always, thank you for your membership.