GREATER NEW YORK HEALTH CARE FACILITIES ASSOCIATION
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Memo 20-16

To: Administrator, DNS, Medical Director, Infection Preventionist and QA Committee

From: Mary Gracey-White RN, Director of Regulatory Compliance

Date: May 5, 2020

Re: Updated Information for CMS Waivers

The following information provides insight on the updated Blanket Waivers for Long-Term Care Providers. All information was found through open source research, AHCA, CMS Issues Additional Blanket Regulatory Waivers, the CMS website and the CDC website.

Quality Assurance and Performance Improvement (QAPI)

CMS is modifying certain QAPI program requirements – specifically §483.75(b)-(d) and (e)(3) – to the extent necessary to narrow the scope of the QAPI program to focus on adverse events and infection control.

The following sections are waived:

- §483.75(b) Program design and scope, which includes "address all systems of care and management practices";
- §483.75(c) Program feedback, data systems and monitoring
- §483.75(d) Program systematic analysis and systemic action; and
- §483.75(e)(3) Performance improvement projects.

In-Service Training

CMS is modifying the requirement that the nursing assistant must receive at least 12 hours of in-service training annually by postponing the deadline for completing this requirement until the end of the first full quarter after the declaration of the COVID-19 Public Health Emergency concludes.

Inspection, Testing & Maintenance (ITM) under the Physical Environment

CMS is waiving certain physical environment requirements for providers including ICF/IIDs and SNFs/NFs to the extent necessary to permit facilities to adjust scheduled inspection, testing and maintenance (ITM) frequencies and activities for facility and medical equipment required by the Life Safety Code (LSC) and Health Care Facilities Code (HCFC).

The following LSC and HCFC ITM are considered critical and are not included in this waiver:

- Sprinkler system monthly electric motor-driven and weekly diesel engine-driven fire pump testing.
- Portable fire extinguisher monthly inspection.
- Elevators with firefighters' emergency operations monthly testing.
- Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing.
- Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency.

ICF/IIDs, and SNFs/NFs are required to have an outside window or outside door in every sleeping room. CMS will permit a waiver of these outside window and outside door requirements to permit these providers to use facility and non-facility space that is not normally used for patient care for temporary patient care of quarantine.

Note: Be aware that federal waivers such as these may not be applicable to state and/or local Authorities Having Jurisdiction (AHJs).

Resident Transfer and Discharge

CMS continues to waive requirements to allow a LTC facility to transfer or discharge residents to another LTC facility solely for the following cohorting purposes. Scenario two has added language regarding resident's care plans in **bold** below.

1. Transferring residents with symptoms of a respiratory infection or confirmed diagnosis of COVID-19 to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents;
2. Transferring residents without symptoms of a respiratory infection or confirmed to not have COVID-19 to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents to prevent them from acquiring COVID-19, **as well as providing treatment or therapy for other conditions as required by the resident's plan of care: or**
3. Transferring residents without symptoms of a respiratory infection to another facility that agrees to accept each specific resident to observe for any signs or symptoms of a respiratory infection over 14 days.

CMS Delays Implementation of New MDS Items (Transfer of Health Information and Certain SPADES) Adopted for the SNF GRQ for 2 Years

The Interim final rule from CMS also delays the implementation of new MDS items for SNF QRP as described below:

- This delay will enable SNFs to continue using the current version of the MDS 3.0 V1.17.1
- CMS will require SNFs to collect data on the transfer of health information measures and SPADES data on October 1 of the 1st of the year that is at least two full fiscal years after the end of the COVID-19 public health emergency.
- CMS will work with SNFs prior to implementation to address questions related to training and software update needs.

Additional CMS Guidance

1. SNF QRP Program

- CMS is granting an exception to the Quality Reporting Program (QRP) reporting requirements for SNFs.
- SNFs are expected from reporting on standardized patient assessment data required for the quality reporting program **Calendar Years 2019 and 2020 for the following Quarters:**

Skilled Nursing Facility QRP

- October 1, 2019 – December 31, 2019 (Q4 2019)
- January 1, 2020 – March 31, 2020 (Q1 2020)
- April 1, 2020 – June 30, 2020 (Q2 2020)
  (**NOTE**: MDS sections related to QRP must be completed, but they will not be counted towards QRP Reporting)

2. VBP Program (REHOSPITALIZATIONS)

- CMS finalized the SNF VBP Program's Extraordinary Circumstances Exception Policy in the FY2019 PPS final rule
- CMS will exclude qualifying claims from the SNF 30-Day All-Cause VBP Readmission Measure for the following periods:
  - January 1, 2020 – March 31, 2020 (Q1 2020)
  - April 1, 2020 – June 30, 2020 (Q2 2020)

3. Medical Review

- CMS has suspended most Medicare Fee-For-Service medical review during the emergency period due to the COVID-19 pandemic.
- This includes pre-payment medical reviews conducted by Medicare Administrator Contractors under the Targeted Probe and Educate program (TPE), and post-payment reviews conducted by the MACs, Supplemental Medical Review Contractor reviews and Recovery Audit Contractor (RAC).
- No additional documentation requests will be issued for the duration of the emergency for the COVID-19 pandemic
- Targeted Probe and Educate reviews that are in process will be suspended and claims will be released and paid.
- Current post-payment MAC, and RAC reviews will be suspended and released from review.

- This suspension of medical review activities is for the duration of the PHE. However, CMS may conduct medical reviews during or after the PHE if there is an indication of potential fraud.

Please be reminded If your facility has not yet enrolled in NHSN to report COVID-19 data to the CDC, use this link to enroll.

We are also sharing sample documentation guidance shared by our colleagues at the CHARTS Group.