STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
PO Box 45600, Olympia, Washington 98504-5600

March 15, 2019

ALTSA: NH #2019-008
QSO-19-07-NH ENHANCED OVERSIGHT AND ENFORCEMENT OF NON-IMPROVING LATE ADOPTERS

Dear Nursing Facility/Home Administrator:

The purpose of this letter is to inform you about measures the Center for Medicare and Medicaid Services (CMS) is implementing for facilities identified as non-improving late adopters, including outreach activities and additional enforcement and oversight. QSO19-07-NH, a memorandum from CMS, has more information.

In 2012, CMS launched the Partnership to Improve Dementia Care in Nursing Homes. One specific focus of the partnership is protecting residents from being prescribed antipsychotic medications unless there is a valid, clinical indication and a systematic process to evaluate each individual's need.

Since 2011, CMS has seen a reduction of 38.9 percent in long-stay nursing home residents who were receiving an antipsychotic medication. Despite the success of the National Partnership, in December 2017 CMS identified approximately 1,500 facilities that had not improved their antipsychotic medication utilization rates for long-stay nursing home residents since the 4th quarter of 2011. CMS calls these facilities "late adopters." In December 2017, CMS notified these facilities of this identification.

CMS intends to continue to expand its efforts to reduce the use of antipsychotic medications by pursuing a two-pronged approach. The first approach will involve enhanced oversight and enforcement actions, while the second approach will focus on outreach with corporations that own or operate significant numbers of late adopter facilities.

Enforcement and Oversight: The enhanced enforcement will focus on late adopter facilities who have a history of two or more noncompliance citations with specific federal requirements related to antipsychotic medication use and dementia care since January 2016. CMS divided these facilities into two groups. Group One are those facilities with a history of three or more deficiency citations, while group two had two citations.

If Group One or Group Two facilities are determined not to be in substantial compliance with requirements for Chemical Restraints (F605), Dementia Care (F744), or Psychotropic Medications (F758) during any survey (e.g., recertification, revisit, focused dementia/schizophrenia, and complaint), they will be subject to certain enforcement remedies for such noncompliance in addition to any other remedies required by law. Remedies will apply to citations at severity levels 2, 3 and 4 (Scope/Severity D through L).

Specifically, if surveyors find noncompliance with F605, F744 or F758, the CMS Regional Office (RO) will impose a discretionary Denial of Payment for New Admissions (DPNA) penalty. CMS will apply the DPNA with a two-day notice period for any citations at the Immediate Jeopardy

(IJ) level and with a 15-day notice period for non-IJ level deficiencies or if IJ is removed before the end of the survey.

If any survey of a Group One or Group Two facility results in a citation of one of the three tags listed above as well as in other regulatory citations that meet the Immediate Imposition of Remedies (IIoR) outlined in Quality, Safety & Oversight Memorandum QSO 18-18-NH, the CMS regional office should impose the discretionary DPNA remedy. This is in addition to any other remedy specified by the IIoR policy and the Civil Money Penalty (CMP) Analytic Tool. However, if cited deficiencies under the IIoR policy would result in the imposition of a per-instance CMP but a per-day CMP under this policy, the CMS regional office should impose the per-day CMP, and not impose the per-instance CMP for that survey.

For Group One facilities only: In addition to the discretionary DPNA remedy, a per-day Civil Money Penalty (CMP) will be imposed starting on the first day of the survey in which tags F605, F744, or F758 are cited. CMP amounts will continue to be established using the CMP Analytic Tool.

For late adopter deficiency citations of F758 (Psychotropic Medications) that are solely related to PRN order limitations at §§483.45(e)(3)-(e)(5) and occur on or before May 28, 2019, the Temporary Enforcement Delay for certain Phase 2 F-tags applies. Therefore, Group One and Group Two facilities will not be imposed a CMP or discretionary DPNA under this policy, but should be imposed a directed plan of correction or directed in-service training as noted under that moratorium. Please see policy memorandum QSO 18-04-NH for a complete description of the Phase 2 enforcement moratorium. If the violation of F758 does not meet this condition, then the moratorium does not apply and CMPs and discretionary DPNAs should be imposed pursuant this memorandum.

CMS will re-evaluate this enhanced oversight policy in approximately one year among all late-adopter homes to determine appropriateness to continue and/or modify efforts.

Corporate Engagement: CMS is also looking for opportunities to engage with corporate chains that have significant numbers of nursing homes identified as late adopters.

For all late adopters, CMS has set a goal for a 15% decrease of antipsychotic medication use for long stay residents by the end of 2019. CMS encourages all late adopter facilities to continue focusing on reducing the use of antipsychotic medications. CMS will continue to closely monitor progress on the remaining late adopter facilities not in Group One and Group Two.

Thank you for your continued commitment to resident health and safety. If you have any questions, please contact your local RCS Field Manager or Dina Longen-Grimes, Compliance Specialist at dina.longen-grimes@dshs.wa.gov or (360)725-2633.

Sincerely,

Candace Goehring

Candace Goehring, Director
Residential Care Services

DSHS: *"Transforming Lives"*