



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

November 27, 2019

AL TSA: NH #2019-028

**QSO-20-03-NH UPDATES AND INITIATIVES TO ENSURE SAFETY AND QUALITY IN
NURSING HOMES – PHASE 3 INTERPRETIVE GUIDANCE, REVISION TO ARBITRATION
AGREEMENT REQUIREMENTS AND ANNOUNCEMENT OF NEW RESOURCES**

Dear Nursing Facility/Home Administrator:

CMS continues to take action to improve and protect the health and safety of nursing home residents. In a memo published November 22, 2019 ([QSO-20-03-NH](#)), CMS provided an update about their actions.

The Centers for Medicare and Medicaid Services (CMS) published the final rule, *Reform of Requirements for Long-Term Care Facilities*, in the Federal Register on October 4, 2016, and the rule became effective on November 28, 2016. This rule specified the implementation of the rules would occur in three phases. Phase 3 requirements will be effective November 28, 2019 and facilities will be expected to comply with these and all, regulations.

Phase 3 Interpretive Guidance:

CMS will be releasing updated Interpretive Guidance and training for the Phase 3 *Requirements for Participation for Long-Term Care (LTC) Facilities* in the second calendar quarter in 2020. While the regulations will be effective, our ability to survey for compliance with the Phase 3 requirements will be limited until the Interpretive Guidance is released.

Arbitration Agreements:

One of the 2016 requirements at 42 C.F.R. §483.70(n)(1) prohibited nursing homes receiving Medicare or Medicaid funds from entering into pre-dispute binding arbitration agreements. On November 7, 2016, a United States District Court issued an order preliminarily enjoining CMS from enforcing section 483.70(n)(1), and surveyors were prohibited from surveying for compliance to that requirement until action was taken to comply with the court decision.

On July 18, 2019, CMS published a final rule establishing new requirements related to the use of arbitration agreements by long-term care facilities. This final rule amends the requirements that Long-Term Care (LTC) facilities must meet to participate with Medicare and Medicaid. The final rule can be found at: <https://www.govinfo.gov/content/pkg/FR-2019-07-18/pdf/2019-14945.pdf>.

The requirements for arbitration agreements are effective on September 16, 2019 and facilities are required to comply with these requirements. CMS intends to publish interpretive guidance for surveyors in the upcoming weeks.

Infection Prevention and Control Resources:

In light of recent reports of healthcare-associated infections in nursing homes, such as adenovirus and *Candida auris*, facilities are reminded of their responsibility for an effective infection prevention and control program to mitigate the onset and spread of infections.

Dear NH Administrator
November 27, 2019
Page 2

In addition to preventing the spread of infectious organisms through basic infection prevention and control practices, establishing an effective antibiotic stewardship program (ASP) is essential for reducing the development of Multi-drug Resistant Organisms (MDRO). To support this, CMS has created a training titled, "Development of an Antibiotic Stewardship Program for Nursing Home Providers." The training and supplemental resources are available at the Integrated Surveyor Training website: <https://surveyortraining.cms.hhs.gov>. This training will be available starting December 2, 2019. Completion of the training does not automatically deem a provider compliant.

In collaboration with the Centers for Disease Control and Prevention, CMS has updated the "Nursing Home Infection Control Worksheet" (ICWS). The nursing home ICWS is a voluntary self-assessment tool for facilities to use to improve infection control and prevention. This tool will be available on December 2, 2019 on the CMS Integrated Surveyor Training Website: <https://surveyortraining.cms.hhs.gov>.

Employee Satisfaction Resource:

CMS developed two optional toolkits to aid nursing home teams with improving staff competency and employee satisfaction. With the release of the QSO memo, CMS announced the release of Toolkit 3 - Guide to Improving Nursing Home Employee Satisfaction.

Toolkits 1, 2, and 3 are available free at: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/LTC-CMP-Reinvestment.html>

For any questions directed to CMS, contact DNH_TriageTeam@cms.hhs.gov. For other questions, contact [Lisa Herke](#), Nursing Home Policy Program Manager at (509) 225-2819.

Sincerely,



Candace Goehring, Director
Residential Care Services

DSHS: "Transforming Lives"