



Pennsylvania Coalition of Affiliated
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CMS New Requirements of Participation: Phase One Implementation Effective November 28, 2016

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New Requirements Of Participation (RoPs)

- Published October 4, 2016 (81 Fed. Reg. 68688)
- Available at
<https://www.federalregister.gov/documents/2016/10/04>
- First comprehensive update since 1991
- CMS estimated cost per SNF
 - Year 1: ~ \$62,900
 - Subsequent years: ~\$55,000
 - ▶ 81 Fed. Reg. 68844

CMS: Themes Of The RoPs

- Person-centered care
- Quality
- Facility assessment, competency-based approach
- Comprehensive review & modernization
- Implementation of legislative requirements

Survey Implementation

- Phase 1: effective November 28, 2016
 - Surveyor training November 18, 2016
 - Same survey process
 - New RoPs will be merged into existing F-tags
- Phase 2: effective November 28, 2017
 - New Appendix PP (State Operations Manual, SOM) with all new F-tags
 - New survey process combines “traditional” & “Quality Indicator Survey” (QIS)

Multi-Phase Implementation Of RoPs

- Phase 1: November 28, 2016
- Phase 2:
 - 1 year following the *effective date* of the final rule (Nov. 28, 2017)
- Phase 3:
 - 3 years following the *effective date* of the final rule (November 28, 2019)
- Qualifications for dietary manager
 - Up to 5 years

Phase 1

Phase 1 (* this section is partially implemented in Phase 2 and/or 3)

- Resident Rights and Facility Responsibilities*
- Freedom from Abuse Neglect and Exploitation*
- Admission, Transfer and Discharge*
- Resident Assessment
- Comprehensive, Person-Centered Care Planning*
- Quality of Life
- Quality of Care*
- Physician Services
- Nursing Services*
- Pharmacy Services*
- Laboratory, radiology and other diagnostic services
- Dental Services*
- Food and Nutrition*
- Specialized Rehabilitation
- Administration (Facility Assessment – Phase 2)*
- Quality Assurance and Performance Improvement* - QAA Committee
- Infection Control – Program*
- Physical Environment*

Phases 2 and 3

Phase	Primary Implementation
Phase 2	<ul style="list-style-type: none">• Behavioral Health Services*• Quality Assurance and Performance Improvement* - QAPI Plan• Infection Control – Facility Assessment and Antibiotic Stewardship **• Physical Environment- smoking policies *
Phase 3	<ul style="list-style-type: none">• Quality Assurance and Performance Improvement* - Implementation of QAPI• Infection Control – Infection Control Preventionist *• Compliance and Ethics• Physical Environment- call lights at resident bedside *• Training *

*This section is partially implemented in other phases.

New Definitions

- “abuse”
- “adverse event”
- “exploitation”
- “misappropriation of resident property”
- “mistreatment”
- “neglect”
- “person-centered care”
- “resident representative”
- “sexual abuse”

Phase 1: Highlights

- Resident rights/facility responsibilities combined and expanded
- Drug regimen review process more detailed
- Must have discharge planning process & plan for all residents
- Person-centered care plan
 - More extensive resident assessment process
 - Must include CNA and dietary worker
 - PASARR incorporated into assessment, care plan and discharge plan
- New behavioral health services (§483.40)
- Pre-dispute Binding Arbitration Agreements prohibited

Phases 2 And 3: Highlights

- Added quality assurance and performance improvement (QAPI)
- Added compliance and ethics section
- Greater monitoring and documentation related to appropriateness of meds
 - Psychotropic & antibiotic stewardship
- Require Infection Control Program & Infection Preventionist
- Added a staff competency requirement to determine nursing staffing levels
 - Based on a **facility assessment**, which includes but is not limited to the number of residents, resident acuity, range of diagnoses, and the content of individual care plans.
- Require facility provide behavioral health care and services training (for patients with trauma)

§483.5 Definitions

- Person-centered care – focus on resident as locus of control and support resident in making own choices and having control over daily lives
- Resident representative – individual chosen by resident to act on behalf of resident; person authorized by State or Federal law
 - Review PA Act 169
 - Right to access medical, *social or other personal information* of the resident

§483.10 Resident Rights

- Includes “facility responsibilities”
- Resident must receive information (oral and written) in language that he or she can understand about various topics, including medical condition
 - Consider also Section 1557 of Affordable Care Act (ACA) : <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/>
- Facility must have policies and procedures (P&Ps) re: visitation rights of resident, including any clinically necessary or reasonable restriction or limitation or safety restriction or limitation when consistent with the regulations

§483.10 Resident Rights

- Facility acts as fiduciary if resident deposits personal funds
- Facility must have a grievance policy and a Grievance Official
 - Must also have a grievance officer under Section 1557 of the ACA

Resident Grievance Rights

- Right to voice grievances without discrimination or reprisal and without fear of discrimination or reprisal
 - Includes care and treatment which has been furnished as well as that which has not been furnished
 - Behavior of staff and of other residents
 - Other concerns regarding their stay

Resident Grievance Rights— SNF Duties

- Make prompt efforts to resolve grievances
- Provide residents with information on how to file a grievance or complaint
- Establish a grievance policy to ensure the prompt resolution of all grievances
 - Must give copy of grievance policy to resident upon request

Grievance Policy— Address Resident Rights

- Notifying resident individually or through postings in prominent locations throughout facility of right to file grievances orally (meaning spoken) or in writing
- Right to file grievances anonymously
- Contact information of the grievance official with whom a grievance can be filed
 - Name, business address (mailing and email) and business phone number

Grievance Policy— Address Resident Rights

- Reasonable expected time frame for completing review of grievance
- Right to obtain a written decision regarding his or her grievance
- Contact information of independent entities with whom grievances may be filed

Grievance Policy—Grievance Official

- Identify a Grievance Official and responsibilities
 - Overseeing the grievance process
 - Receiving and tracking grievances through to their conclusion
 - Leading any necessary investigations
 - Maintaining confidentiality of all information associated with grievances
 - Issuing written grievance decisions to resident
 - Coordinating with state and federal agencies as necessary in light of specific allegations

Grievance Policy–Decisions

- All written grievance decisions must include:
 - Date the grievance was received
 - Summary statement of the grievance
 - Steps taken to investigate the grievance
 - Summary of pertinent findings or conclusions
 - Statement whether grievance was confirmed or not confirmed
 - Any corrective action taken or to be taken
 - Date the written decision was issued

Grievance Policy—Corrective Action

- Taking appropriate corrective action in accordance with State law if the alleged violation of the residents' rights is confirmed by the facility or if an outside entity having jurisdiction, such as the State Survey Agency, Quality Improvement Organization, or local law enforcement agency confirms a violation of any of these residents' rights within its area of responsibility

Grievance Policy–Log

- Must maintain evidence demonstrating the results of all grievances for a period of **no less than 3 years** from the issuance of the grievance decision
 - Consider whether to combine RoP Grievance Log with OCR Grievances

§483.12 Freedom From Abuse, Neglect, And Exploitation

- Review P&Ps for consistency with new definitions and requirements
- Prohibits hiring anyone with a disciplinary action in effect against professional license by a state licensure body as result of a finding of abuse, neglect, exploitation, mistreatment of residents or misappropriation of resident property
 - Impact of Pennsylvania's Protective Services Laws (OAPSA, APSA, CPSL)?

§483.15 Admission, Transfer, And Discharge Rights

- Heightened emphasis on discharge planning—
 - Phase 2 implementation Transfer/Discharge Documentation
- Establish and implement (or review/revise) admission policy
- Requires orientation of resident for transfer or discharge to ensure safe and orderly transfer or discharge
- Review/revise/create written policy on permitting residents to return after hospitalization or therapeutic leave
 - Include specific provisions outlined in regulation

§483.21 Comprehensive Person-Centered Care Planning

- Specific information must be included in comprehensive care plan
- Plan must be developed within 7 days after completion of the comprehensive assessment
- Requires IDT preparing plan to include
 - Nurse aide with responsibility for the resident
 - Member of food and nutrition services staff
- If participation of resident and representative in development of plan not practicable, explanation must be in resident's medical record

§483.21 Comprehensive Person-Centered Care Planning: Discharge Planning

- Must focus on discharge goals and residents must be active partners in the planning and transition process
- Regular re-evaluation and modification of plan
- Specifies what must be included in the plan and considerations that must be taken in development of the plan

§483.25 Quality of Care

- Includes care issues that were previously included at F-tag 309
- Entire RoP implemented in Phase 1 *except* trauma-centered care

§483.30 Physician Services

- No requirement for credentialing
- No requirement for physician visit prior to transfer
- Allows delegation for writing dietary orders
- Allows delegation for writing therapy orders

Tip: review all physician agreements to require compliance with new pharmacy provisions, as well as Stark Law and Anti-Kickback Statute

§483.35 Nursing Services

- Must have sufficient nursing staff with *appropriate competencies and skills sets* to assure resident safety and attain maintain highest practicable physical, mental, and psychosocial well-being of each resident
 - Determined by resident assessments
 - Residents' individual plans of care
 - Number & acuity & diagnoses of residents
- Other nursing personnel includes nurse aides

§483.40 Behavioral Health Services: New

- Based on comprehensive assessment, resident with mental disorder or psychosocial adjustment difficulty receives appropriate treatment and services to correct the problem or attain highest practicable mental and psychosocial well-being
 - Resident with dementia receives treatment & services
- If assessment does not reveal mental or psychosocial adjustment difficulties, no pattern of decreased social interaction and/or increased withdrawn, angry, or depressive behaviors unless clinical condition demonstrates development of such a pattern was unavoidable
- Must provide medically-related social services for highest practicable well-being
- Sufficient, competent staff

§483.45 Pharmacy Services

- Psychotropic drug: any drug that affects brain activities associated with mental processes and behavior; includes but not limited to:
 - Anti-psychotic
 - Anti-depressant
 - Anti-anxiety
 - Hypnotic
- Drug regimen review & reporting
 - Pharmacist must report irregularities to attending physician, medical director and director of nursing and reports must be acted upon

§483.50 Laboratory, Radiology, And Other Diagnostic Services

- Facility must promptly notify the ordering physician, PA, NP, or clinical nurse specialist of lab results that fall outside of clinical reference ranges in accordance with facility policies and procedures for notification of a practitioner or per the ordering physician's orders
- Physician extenders can order radiology and other diagnostic services and must be promptly notified of results falling outside of clinical reference ranges in accordance with facility policies and procedures

§483.55 Dental Services

- Note new requirements for replacement of lost dentures within 3 days
 - Phase 2 implementation

§483.60 Food And Nutrition Services

- Sufficient and competent staff
- New education requirements for dietitian and food service manager
- Must make reasonable efforts to address religious, cultural and ethnic needs
- Policy for use and storage of foods brought to residents by family and visitors

§483.70 Administration

- Facility assessment implemented in Phase 2 but should start reviewing now
- Prohibits use of pre-dispute arbitration agreements
 - AHCA has filed suit challenging and requesting preliminary injunction
- Requires full time social worker for >120 beds
- Incorporates recent regulations (facility closure, hospice, payroll based journal)

§483.75 Quality Assurance And Performance Improvement

- QA&A committee – all provisions except the inclusion of the infection prevention control officer in Phase 1
- State may not require disclosure of the records of the committee except related to requirements of the committee (e.g., who is on committee; that committee meets as required; etc.)
- Good faith attempts by the committee to identify and correct quality deficiencies will not be used as a basis for sanctions
- Most QAPI requirements in Phase 2

§483.80 Infection Control

- Infection prevention and control program
 - Written standards, policies, and procedures for the program including specified topics
 - Consider relation to current Infection Control Plan already required by Pennsylvania
- Annual review of the infection prevention and control program and update as necessary
- Antibiotic stewardship—Phase 2
- Infection Control Preventionist- Phase 3
- Flu & pneumonia vaccines

§483.85 Compliance And Ethics Program

- Regulations have conflicting implementation dates
- CMS is aware and will be issuing clarification
- **Not** a Phase 1 issue

§483.90 Physical Environment

- After Nov. 28, 2016, for any facility newly certified or approved for construction/major renovation
 - Each resident room must have its own bathroom with at least a commode and sink
 - Two residents to room
- Smoking policies—Phase 2
- Resident call next to bed—Phase 3

§483.95 Training Requirements

- Training program for all new and existing staff, individuals providing services under a contractual arrangement and volunteers, consistent with their expected role
 - Abuse, neglect and exploitation
- In-service training for nurse aides
 - Must include dementia management training and resident abuse prevention training
 - If providing care for individuals with cognitive impairment, training on care of the cognitively impaired

Areas of Substandard Quality Of Care

- Resident Rights §483.10
 - Resident Rights
 - Exercise of Rights
 - Respect and Dignity
 - Self-Determination
 - Safe Environment

Areas of Substandard Quality Of Care

- Freedom From Abuse, Neglect and Exploitation §483.12
 - Prevent Abuse
 - Policies and Procedures
 - Investigate and Report
- Quality of Life §483.24
 - Necessary Care and Services
 - Activities of Daily Living
 - Activities

Areas of Substandard Quality Of Care

- Quality of Care §483.25
 - Vision and Hearing
 - Skin Integrity
 - Mobility
 - Accidents
 - Incontinence
 - Colostomy, Urostomy or Ileostomy Care
 - Assisted Nutrition and Hydration
 - Parenteral Fluids
 - Respiratory Care
 - Prostheses
 - Pain Management
 - Dialysis
 - Trauma-Informed Care
 - Bed Rails

Areas of Substandard Quality Of Care

- Quality of Care §483.25
 - Vision and Hearing
 - Skin Integrity
 - Mobility
 - Accidents
 - Incontinence
 - Colostomy, Urostomy or Ileostomy Care

Areas of Substandard Quality Of Care

- Behavioral Health Services §483.40
 - Comprehensive Assessment
- Pharmacy Services §483.45
 - Unnecessary Drugs
 - Psychotropic Drugs
 - Medication Errors

Areas of Substandard Quality Of Care

- Administration §483.70
 - Social Worker
- Infection Control §483.40
 - Influenza and Pneumococcal Immunizations

Implementation Considerations

- Concentrate on Phase 1
- Identify gaps in existing P&Ps
- Create new P&Ps
- Use language of RoPs where possible
- Review job descriptions, evaluations and competencies
- Revise admissions agreement by November 28 if you have pre-dispute arbitration provisions

Questions???

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