



Center for Clinical Standards and Quality/Survey & Certification Group

Ref: S&C: 13-21- ALL

DATE: March 22, 2013

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Access to Statements of Deficiencies (CMS-2567) on the Web for Skilled Nursing Facilities, Nursing Facilities, Hospitals, & Critical Access Hospitals

Memorandum Summary

- **Survey Findings Posted on <http://www.cms.gov>:** In July 2012, the Centers for Medicare & Medicaid Services (CMS) began posting redacted Statements of Deficiencies (CMS-2567s) for skilled nursing facilities and nursing facilities on *Nursing Home Compare*. In March 2013, CMS began posting CMS-2567s for short-term acute care hospitals and critical access hospitals (CAHs) for surveys based on complaint investigations. This memorandum describes the contents and location of those files.
- **Other Web-based Tools Based on These Data:** At least two additional websites, provided by private parties (*ProPublica* and the Association for Health Care Journalists), publish information based on the CMS-2567 data. These websites are independent of CMS. CMS does not endorse or sponsor any particular private party application.
- **Plans of Correction (POC):** The posted CMS data do not contain any POC information. State Survey Agencies (SAs) and CMS Regional Offices (RO) may see an increase in requests for both the CMS-2567 and any associated POCs.
- **Question & Answers:** We plan to issue an update to this memorandum that will include an attachment of frequently asked questions in order to provide answers to other queries that may arise.

Background – Nursing Home Survey Findings

In July 2012, CMS began posting nursing home statements of deficiencies, derived from the Form CMS-2567, Statement of Deficiencies and Plan of Correction, on *Nursing Home Compare* (www.medicare.gov/nursinghomecompare), when the surveys have been conducted under Federal auspices. Since that release, visitors to the *Nursing Home Compare* site have been able to view electronic replicas of completed CMS-2567 reports for the most recent standard health survey and the most recent 15 months of complaint surveys.

Also in July 2012, CMS began posting in an electronic database the same CMS-2567 deficiency data on the *Five-Star Nursing Home Quality Rating System* section of the Survey and Certification page of the cms.gov website, <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandComplianc/FSQRS.html>. Both websites are refreshed each month. These data can be downloaded at the bottom of the above-referenced website under the title “Related Links”. The data are separated by CMS Region.

We continue to make improvements to the *Nursing Home Compare* website. For example, in April 2013 we plan to expand the time period for which CMS-2567 reports are published (from the current single survey cycle to a period encompassing the preceding three standard health surveys and three years of complaint surveys). Further, to improve the public’s ability to interpret CMS-2567 findings, we also plan to add indicators for the scope and severity of each deficiency cited on the forms.

The CMS national database does not include facility Plans of Correction (PoCs, so the PoCs are not found on the CMS websites. However, the facility PoCs may be requested from either the facility or the State Survey Agency (SA). In addition, section 1902(a)(9)(D) of the Social Security Act requires each State to maintain a consumer-oriented website providing useful information to consumers, including the nursing home CMS-2567 report and the facility PoC. Links to the State websites may be found on the CMS *Nursing Home Compare* website.

Short-Term Acute Care Hospitals and Critical Access Hospitals (CAHs)

In March 2013, CMS began posting the data derived from CMS-2567s resulting from complaint surveys of both Short-term Acute Care Hospitals and CAHs that have been conducted since January 2011. These include the complaint investigations conducted by SAs under federal auspices for both Medicare-deemed (accredited) hospitals and hospitals that are not deemed for Medicare through a survey conducted by a CMS-approved accrediting organization. We are making these data available as a public service to promote an informed citizenry, patient engagement in healthcare, quality improvement on the part of providers, and transparency in government. The hospital data can be found under “Downloads” at the bottom of the Hospital section of the Survey and Certification Survey and Certification page of the cms.gov website, <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandComplianc/Hospitals.html>. We plan to update this website on at least a quarterly basis.

There is some lag time between when a survey report is provided to a hospital or CAH and when those survey findings are uploaded to the CMS national database. Occasionally there is also failed upload attempt. Therefore, we are including on the web a list of surveys that have resulted in federal deficiencies, but seem to be delayed and not yet been successfully uploaded to the national database. CMS is continuing to work with States to speed the upload process and ensure that completed hospital surveys are successfully uploaded to the national database.

Other Web-Based Tools for Searching CMS-2567s

In addition to the Federal websites noted above, two websites owned by private entities also publish the CMS survey data of nursing homes, short-term acute care hospitals, and CAHs, based on the CMS information. The *ProPublica* website and the Association for Health Care Journalist (AHCJ) websites, respectively, provide search engines that refer back to the CMS-2567 data that we have

made available. The *ProPublica* tool, *Nursing Home Inspect*, (available at <http://projects.propublica.org/nursing-homes>) points users directly to the CMS-2567s on the Nursing Home Compare website, whereas the AHCJ tool (available at <http://www.hospitalinspections.org>) uses its own website to display the CMS-2567 information.

While these websites post or refer to data that CMS has made publicly available, the websites are completely independent of CMS. CMS does not endorse or sponsor any particular private party application.

Requests to the State Agencies and Regional Offices (ROs) for the 2567 Data

We are aware that CMS and the SAs receive many requests for CMS-2567s.

CMS-2567 reports are publicly releasable upon request and do *not* require release through a Freedom of Information Act (FOIA) request. S&C Memoranda 11-39 and 10-01 provide more information on the relationship between FOIA and other modes by which Federal information is requested. The above-referenced CMS webpages may help alleviate the workload involved in fulfilling these requests, especially beginning in April 2013 when more nursing home CMS-2567s become available on the webpage. CMS ROs and SAs, whenever advisable, can direct requesters to these webpages. However, since a facility's PoC is not captured electronically by CMS, there is no associated PoC information posted on the CMS websites. We anticipate that the posting of the deficiency information may result in an increased number of requests to SAs and ROs for the associated PoCs. PoCs and other written information from the provider regarding a CMS-2567 report must be made available, upon request, pursuant to 42 CFR 401.133(a).

Questions and Answers

Please send any questions or suggestions regarding CMS posting of CMS-2567 reports to BetterCare@cms.hhs.gov.

Effective Date: Immediately. This information should be communicated to all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management