



Weekly Roundup

...Reporting the state and national long term care news

Please disseminate relevant information to the appropriate department.

- Administration Nursing Dietary Activities Social Services
 Rehabilitation Housekeeping Maintenance Laundry

Friday, October 18, 2013

ANHA NEWS

One Week Remains to Sign Up for My InnerView Satisfaction Survey

ANHA is funding a statewide initiative to measure nursing home satisfaction in partnership with My InnerView by National Research Corporation. The initiative focuses on family, resident and employee satisfaction levels. This is an excellent opportunity to discover how your most important customers view your facility and what they are sharing with the rest of the community.

The deadline to sign up is Friday, October 25. *Please see the attached My InnerView Timeline and Sign Up Form for more details.*

My InnerView will be contacting you to provide instructions for signing up to take full advantage of this opportunity. ANHA encourages every facility to take part in this continued effort to drive nursing home satisfaction.

If you have any questions, contact My InnerView representatives Allison Thomas, athomas@nationalresearch.com, or Teresa Costello, tcostello@nationalresearch.com, or call 800-601-3884. You may also contact John Matson at the ANHA Office at (334) 271-6214 or jmatson@anha.org.

November 20 Seminar: The Nursing Home Survey Process 2013 Update

Please mark your calendars for November 20, 2013, as ANHA will present a seminar entitled “The Nursing Home Survey Process – 2013 Update.” The following items will be covered: MDS 3.0 Update; Proper Discharge Procedures; Handling Complaints and Grievances; Nursing Centers and Hospice Requirements; Voluntary Termination of the Medicare Provider Agreement; Revisit Surveys; Special Focus Facilities; IDRs; Alabama Deficiency Analysis & Common Deficiencies; CMPs; Revised Surveyor Guidance – F155, F322, F309, F172; Life Safety Code Survey Update & OSHA Activities; Revised Guidance F329 and Antipsychotic Medications. This seminar will be held at The Hyatt Regency - The Wynfrey Hotel in Birmingham. The seminar will begin at 8:30 a.m. and conclude at 4:30 p.m. This seminar has been approved for 6 hours of continuing education for nursing home administrators. It has also been approved for 7.2 contact hours for nurses. *Please see the attached flyer for more information.*

Latest Edition of the Long Term Care Survey Available

The new May 2013 edition of the Long Term Care Survey manual is now available for purchase from ANHA. *Please see the attached order form for details.*

NATIONAL NEWS

OIG Releases Medicare Appeals Process Information

The US Health and Human Services, Office of Inspector General (OIG) has released a report, *The First Level of the Medicare Appeals Process, 2008-2012: Volume, Outcomes, and Timeliness*, focusing on the redetermination phase of the Medicare appeals process for Part A and B claims. According to the study, Medicare Administrative Contractors (MACs) processed 2.9 million redeterminations, which involved 3.7 million claims, showing an increase of 33 percent since 2008. Although 80 percent of all redeterminations in 2012 involved Part B services; redeterminations involving Part A services have risen more rapidly. In fact, the OIG report says that between 2008-2012, the redeterminations handled by MACs have seen a 148 percent increase in Medicare Part A claims. The majority of this increase comes from appeals from Medicare recovery audit contractors (RACs). As the number of Part A appeals exploded, those providers appealing these claims have seen their chances at a favorable decision at the redetermination level go down.

In 2008, providers appealing a Part A decision had a 50 percent chance of the MAC deciding in their favor at the redetermination level; but in 2012 those chances fell to 24 percent. Providers appealing Part B claims had a 65 percent chance of a favorable decision at the redetermination level in 2008 and a 51 percent in 2012. MACs largely met the required timeframes for processing redeterminations and paying appeals decided in favor of appellants; but they fell short of meeting timeframes for transferring case files for reconsideration, the second level of Medicare appeals. The Centers for Medicare & Medicaid Services (CMS) employs multiple methods to improve contractors' processing of redeterminations, including fostering communication among contractors and implementing the Medicare Appeals System (MAS) for first level appeals, according to the OIG report. A copy of the full report can be obtained at <https://oig.hhs.gov/oei/reports/oei-01-12-00150.pdf>.

OIG Releases Medicare RAC and CMS Action Report

The US Department of Health and Human Services, Office of Inspector General (OIG) has called on the Centers for Medicare & Medicaid Services (CMS) to strengthen activities to prevent improper Medicare payments, including enhancements to the Recovery Audit Contractor (RAC) program. According to the OIG report, *Medicare Recovery Audit Contractors and CMS' Actions to Address Improper Payments, Referrals of Potential Fraud, and Performance*, RACs identified only half of all claims they reviewed in FYs 2010 and 2011 as having resulted in improper payments totaling \$1.3 billion. While CMS took corrective actions to address the majority of identified vulnerabilities, the agency did not evaluate the effectiveness of those actions, however, so high levels of improper payments may continue. The OIG report also raised concerns about CMS failure to act on all referrals of potential fraud that it received from RACs, along with gaps in CMS evaluations of RAC performance on contract requirements. OIG recommends that CMS address identified vulnerabilities; ensure that RACs refer all appropriate cases of potential fraud; take appropriate action on RAC referrals of potential fraud and enhance

RAC performance evaluation. CMS generally concurred with the OIG recommendations. A copy of the full report can be obtained at <http://oig.hhs.gov/oei/reports/oei-04-11-00680.pdf>.

Sixth Circuit Allows Micro-Unions

The Sixth Circuit Court of Appeals affirmed the National Labor Relations Board's (NLRB) decision in *Specialty Healthcare, 357 NLRB No. 83 (2011)*, in which the Board overruled 20 years of practice regarding how it determines the "appropriate unit" in non-acute health care facilities. In addition, and more importantly, *Specialty Healthcare* permits unions to petition for smaller units -- such as units that consist of only one department, or perhaps even one job classification -- thus eliminating the NLRB's prior preference of favoring "wall to wall" units. The employer in *Specialty Healthcare* challenged the Board's decision in *Kindred Nursing Centers East, LLC v. NLRB, Case Nos. 12-1027/1174 (6th Cir. Aug. 15, 2013)*, primarily claiming that the Board abused its discretion by adopting a new unit determination approach inconsistent with the traditional community-of-interest test, and that *Specialty Healthcare's* "overwhelming-community-of-interest test" does not merely "reiterate and clarify" the law, as asserted by the Board. The employer also claimed that the Board's test in *Specialty Healthcare* violates Section 9(c)(5) of the National Labor Relations Act (NLRA), which prevents the Board from determining bargaining units based solely upon the extent of organization. The Sixth Circuit affirmed the NLRB's decision, holding that the Board's decision was not arbitrary, unreasonable or an abuse of discretion.

Specifically, the Sixth Circuit determined that NLRB adopted a community-of-interest test based on some prior Board precedents, and that requiring an employer to show that excluded employees have an "overwhelming community of interest" with the included employees was not a material change in the law. Moreover, the court found that Section 9(c)(5) of the NLRA is not implicated by the Board's new approach so long as the Board first finds the proposed unit is "prima facie appropriate" before applying the overwhelming community of interest standard. The court also rejected the employer's alternative argument that the Board could only change the community-of-interest test through notice-and-comment rulemaking. Despite the fact that *Specialty Healthcare* has been NLRB law for two years now, its full effect on union organizing efforts and unit determinations is still relatively unknown.

CDC Report on Antibiotic Resistance Categorizes Threats and Offers Recommendations

In an effort to raise awareness, the Centers for Disease Control and Prevention (CDC) released "Antibiotic Resistance Threats in the United States, 2013" (<http://www.cdc.gov/drugresistance/threat-report-2013/>) the first report on antibiotic resistance and potential consequences of inaction.

The threats are categorized as: urgent, serious, and concerning. The report was written to be accessible to clinicians, consumers, and policymakers. It also includes technical information, references, and web links.

The third section of the report provides summaries of each of the bacteria. These summaries can aid in discussions about each bacteria, how to manage infections, and implications for public health. They also highlight the similarities and differences among the many different types of infections.

Antibiotic resistance also undermines the ability to treat people with infectious complications in patients with other diseases. Among the individuals at highest risk are those undergoing cancer treatment and joint replacements. For more information on drug resistance, visit CDC's page Antibiotic/Antimicrobial at <http://www.cdc.gov/drugresistance/index.html>.

STATE NEWS

Alabama Conducting Elder Abuse Awareness Survey

The State of Alabama's Interagency Council for the Prevention of Elder Abuse is conducting a statewide survey to gauge the public's awareness of how to recognize and report potential elder abuse. The survey is being led by the Alabama Dept. of Senior Services (ADSS). Groups being surveyed include probate judges, attorneys, caregivers, healthcare providers and citizens. For more information on the survey, please contact ADSS' Virginia Bell, virginia.bell@adss.alabama.gov, or Robyn James, robyn.james@adss.alabama.gov, at (334) 242-5743.

TB Antigen Shortage – A Note from ADPH

The Centers for Disease Control and Prevention (CDC) has notified state TB programs that the nationwide shortage of tuberculin (both APLISOL® and TUBERSOL®) is expected to continue for several more months. Earlier reports were that the shortage would lessen in June of 2013, when TUBERSOL® production was expected to resume. According to CDC "The current projection for restoration of normal production of Tubersol is sometime in the fall, perhaps October."

The Alabama Department of Public Health recommends that each facility adhere to the CDC publication: "Guidelines for preventing the transmission of *Mycobacterium tuberculosis* in health-care settings" found in the MMWR of 2005. A link to the CDC information is included at: <http://www.cdc.gov/tb/publications/slidesets/InfectionGuidelines/default.htm>

Recommendations for TB screening During the Nationwide Shortage

During the shortage, the Alabama Department of Public Health recommends that individual providers, local health departments, correctional facilities, and health care settings follow the recommendations below:

1. Do **NOT** administer TSTs (TB Skin Tests) to persons who have no risk factors for TB as documented on the TB Screening Form; this should be deferred until Tuberculin is available. Do not do any screening test for persons with a documented previous history of a positive TST or TB disease.
2. Substitute interferon gamma release assays (IGRAs) for TSTs in priority situations as outlined in #3 below. IGRAs can be used in most situations in which the TST is indicated and are preferred for people who have received BCG vaccine (2, 3). QuantiFERON®-TB Gold In-Tube and T-SPOT®.TB have FDA approval for TB testing. Each facility should contact your local hospital laboratory or laboratory vendor to arrange this testing. These tests are covered by Medicare and Medicaid.
3. The highest priorities for tuberculosis screening are:
 - a. Evaluating persons with suspected active TB disease,
 - b. TB contact investigations,

- c. Evaluating residents and employees who are newly arrived in the USA from Asia, Africa, and Latin America, and
 - d. Persons at high risk of progressing to active TB, if infected (for example, persons who are HIV+, age <5, immunosuppressed).
4. Continue to ensure that persons with symptoms of active TB disease receive immediate medical evaluation. For suspected pulmonary TB, screening with a chest x-ray and obtaining sputum for AFB smear and culture are still considered imperative. Remember that chest x-ray screening does not diagnose TB infection or provide information about extra-pulmonary TB disease.
 5. Tuberculin should be made available again in the next several months. This may become available from some suppliers or in some areas sooner than others. Facilities should continue to periodically check with their suppliers so that they can obtain tuberculin and resume, as soon as possible, routine testing of residents and staff which was postponed during this period of shortage.
 6. The Bureau of Health Provider Standards is aware of the problems with obtaining PPD and will not cite any facility for deficient practice for not complying with the TB screening as currently set out in the Rules of the Alabama Board of Health.
 7. The requirement that each facility take appropriate measures to individually assess each resident, evaluate symptoms, initiate appropriate testing and treatment, and protect residents from avoidable harm including TB exposure remains constant.

A sample TB Screening Form to determine TB risk to help direct screening is included.

If there are specific questions regarding these recommendations please contact Dr. Tom Geary, Bureau of Health Provider Standards at 334-206-5366 or Ms. Pam Fortner, Director of the Division of TB Control for ADPH at 334-206-6228

Alabama Board of Nursing Complaint Form

The Alabama Board of Nursing (ABN) now has an online complaint form for employers to complete when reporting a licensed nurse. The online complaint form is on the Board's website, under the Citizenship section in the middle of the first page. Here is a direct link:

https://abn.alabama.gov/abnonline/addcomplaint_employer.aspx. ABN has pared down the complaint form to the necessary elements needed when submitting a complaint. The who, what, when, and where text box has sufficient space for a detail of the complaint. ABN also wants to know if the nurse works for you or another entity (such as a staffing agency). ABN also asks who is to receive the subpoena in your organization. ANHA has been asked to encourage you to use the online process, but ABN will maintain the downloadable paper complaint form online for a few months. Once you use the online complaint process, let ABN know if there are changes you want to make.

ABN also has a consumer complaint form in the center of the first page of the website (www.abn.alabama.gov) and if you are ever asked how to file a complaint with the Board from a patient, patient's family, consumer, etc. please refer them to their website as well.

Medicaid Check Write Schedule for FY 2014

The release of funds is normally the second Monday after the check write (remittance advice) date. Please verify direct deposit status with your bank. *As always, the release of direct deposit and checks depends on the availability of funds.*

October 4, 2013
November 1, 2013
December 6, 2013
January 3, 2014
February 7, 2014
March 7, 2014
April 4, 2014
May 2, 2014
June 6, 2014
July 11, 2014
August 8, 2014
September 5, 2014

October 18, 2013
November 15, 2013
December 13, 2013
January 17, 2014
February 21, 2014
March 21, 2014
April 18, 2014
May 16, 2014
June 20, 2014
July 25, 2014
August 22, 2014
September 12, 2014

Submit Medicaid Cost Reports to ANHA

The Alabama Nursing Home Association is collecting cost reports for analysis by our independent reimbursement consultant, Dave Bishop. As in the past, our reimbursement consultant will provide you a detailed analysis of your costs compared to the costs of other facilities of a similar size. ANHA cannot stress enough the importance of sending in your cost report. In order to negotiate with Medicaid on various issues, we need to have accurate information concerning the profession. This information has proved very beneficial in the past.

Please send a copy of your 2013 Medicaid Cost Report to kmagdon@anha.org or by mail to:
Alabama Nursing Home Association
4156 Carmichael Road
Montgomery, Alabama, 36106
ATTN: Katrina Magdon

New CE Video Available for Nurses

A new online continuing education (CE) course has been added to the Alabama Board of Nurse's course listing available at www.abn.alabama.gov. The 60-minute video, worth 1.2 contact hours, is about monitored practice. Two of the legal nurse consultants, Cathy Boden, MSN, RN, and LaDonna Patton, MSN, RN, CEN, present case studies in substandard nursing practice and drug diversion. They walk the viewer through the time of the complaint received by the Board through the discipline imposed by the Board. Mary Ed Davis, MSN, RN, the Director of VDAP, addresses monitored practice for both VDAP and probation. Specific stipulations in the agreement/order are covered including narcotic restrictions. Finally, Patrick Samuelson, Assistant General Counsel for the Board, addresses administrative hearings and when the Chief Nursing Officer, nurse manager, charge nurse, or general witness might be called upon to testify at an administrative hearing.

Nurses in VDAP or on probation present challenges to employers and the Board wanted to cover items for employers to hopefully improve both the communication and the monitoring of nurses.

FACILITY NEWS

ANHA Expresses Sympathy: Mr. Larry Saxon

ANHA expresses deepest sympathy to the family of Mr. Larry Saxon. Mr. Saxon was the husband of Laura Saxon, administrator of Lynwood Healthcare & Rehabilitation Center. Mr. Saxon passed away on October 12.

Cullman LTC & Rehab Center Earns Deficiency Free Survey!

Cullman Long Term Care & Rehab Center recently earned a deficiency free health survey! Mandy Shaddrix is the Administrator, and Leesa Butler is the Director of Nursing. The facility is located in Cullman, and is managed by USA Healthcare. Congratulations to the staff of Cullman Long Term Care & Rehab Center on this outstanding accomplishment!

Westside Terrace Celebrates 20th Anniversary



Westside Terrace Health & Rehab First recently celebrated 20 years of service to the Dothan area. The facility held a special ceremony to highlights its accomplishments and goals for the future. It opened in 1993 with 100 beds, and expanded to its current capacity of 165 in 1995. Turenne & Associates has managed the facility since 2004.

OTHER NEWS

Take Advantage of AHCA's Free Webinar on LTC Trend Tracker

The American Health Care Association (AHCA) is offering a free webinar to help you make the most of this unique and time-saving tool, the Long Term Care Trend Tracker. The webinar is scheduled for Thursday, October 24, 2013, at 1:00 p.m. CST.

Register today at <https://cc.readytalk.com/cc/s/registrations/new?cid=vi0cbv367sux>

You will gain a better understanding of how to use Trend Tracker

- Learn how and where AHCA obtains the information in LTCTT
- Determine which reports to use for discussions with hospitals and other referral sources
- Understand how LTCTT works with QAPI and goal setting

Estimate Your FY2014 SNF PPS Rates: New Rate Calculator

The American Health Care Association (AHCA) updated their Medicare Part A SNF PPS rate calculator (http://www.ahcancal.org/research_data/funding/Pages/MedicareRateCalculator.aspx)

to assist members in examining and estimating the impact of payment changes to SNF PPS rates. Using information on your distribution of Part A days by RUG category, the calculator will allow you to simulate and understand the impact of SNF PPS payment policy changes for FY 2014 on a facility.

The rate calculator has been updated to reflect Medicare payment policy changes found in the SNF PPS notice for fiscal year 2014 that was issued on August 6, 2013. The final rule and the rate calculator illustrate the net impact of a 2.3% increase in rates for the market basket update, a 0.5% reduction in rates due to a forecast error adjustment, and a 0.4% reduction in rates due to the Accountable Care Act (ACA) mandated productivity adjustment, for a net 1.3% increase in SNF PPS rates for FY 2014. (Please note that the individual adjustments may not add to the total adjustment due to rounding.)

To prepare the rate estimates, please take the following steps on the “Inputs and Results” tab of this Excel spreadsheet:

1. Enter your facility name.
2. Select your facility location in the drop-down menu on the line “Facility Location (CBSA)”.
3. Enter the time period that covers the Medicare patient days by RUG category for your facility.
4. Enter the Medicare patient days by RUG category under the RUG-IV payment system.

The difference between the average Medicare rate for fiscal year 2014, effective October 1, 2013, and the average Medicare rate for fiscal year 2013, effective October 1, 2012, will be expressed in dollar and percentage amounts. You will be able to estimate the impact of the per diem payment changes effective October 1, 2013. For your information, the average Medicare rate for fiscal year 2012, effective October 1, 2011 is also provided.

The information contained in the “Inputs and Results” and “Rate Calculation” tabs may be printed.

Please note that the rates provided in this calculator are the same as those published in the Federal Register. It has been determined that discrepancies may exist between the rates in this calculator and the SNF PPS PC Pricer due to rounding.

AHCA Complimentary Webinars Now Available

Implementing the Affordable Care Act: Understanding Employer Requirements and Compliance Issues

Date & Time: Thursday, November 14, 2013, 1:00 p.m. – 2:00 p.m. CT

Speaker: Nicole Fallon, Healthcare Consultant, Clifton Larson Allen

Registration Link: <http://webinars.ahcancal.org/session.php?id=11729>

Session Description: The Affordable Care Act (ACA) implementation is in high gear with Health Insurance Exchanges opening October 1, and the individual mandate to obtain coverage looming. In this webinar, learn what steps providers as employers should be taking in the coming months to prepare to comply, and new ways of evaluating benefit offerings. Please join AHCA/NCAL and Nicole Fallon of CliftonLarsonAllen for an update on several areas that are critical to the new health insurance marketplaces and what this will mean for providers as employers and from a business perspective. We encourage you to attend this webinar on

Thursday, November 14, at 1 p.m. Central Time which will cover critical health reform deadlines and implications for providers.

Learning Objectives:

- Understanding the affordability and look-back measurement safe harbors and what they mean to you as an employer.
- Understanding various reporting and notification requirements under the ACA.
- Considering the tax implications for the business and employees of benefit decisions going forward.

Understanding what plans will meet minimum essential coverage and minimum value under ACA.

AHCA Quality Improvement Toolkits/Webinars

The 4 Key Strategies to Retain New Hires and Reduce Employee Turnover (toolkit and webinar) and the *Clinical Considerations of Antipsychotic Management* (Toolkit and webinar) are available (free) to all AHCA members at: <http://qualityinitiative.ahcancal.org>. This resource uses a process framework, based on the Nursing Process, to identify care objectives and expectations. It identifies tools and resources to help providers successfully manage antipsychotic medication use at the resident and facility level. The guide focuses on 7 critical steps needed to ensure quality outcomes that are successful and continuous.

Members will need to log-in to access the toolkits, as it is a member-only benefit. If log-in information is needed, please contact your facility Administrator or State Association and they can give you the information you need.

CALENDAR OF EVENTS

<u>Date</u>	<u>Event</u>	<u>Location</u>	<u>Time</u>
October 29	ANHA Region VI Meeting RSVP: Jennifer Agee (205) 391-3600 or jennifer.agee@northporthealth.com Speaker: Katrina Magdon, ANHA Topic: Regulatory Issues and Hot Topics	ANHA Office Montgomery	12:30 p.m.
October 31	ANHA Region III Meeting RSVP: Kevin Ball (205) 788-6330 or kball@ballhealth.com Guest Speaker: Bill O'Connor, ANHA Executive Director	Hanover Health & Rehab Birmingham	12:00 p.m.

Alabama Nursing Home Association

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Links:

Alabama Nursing Home Association <http://www.anha.org>

AL Board of Examiners of Nursing Home Administrators <http://www.alboenha.state.al.us>

AL Dept. of Public Health <http://www.adph.org>

CMS <http://cms.gov>