



Federal Nursing Home Regulatory Update

Minnesota Department of Health

Health Regulation Division

March 9, 2020 Statewide Nursing Home Call

PROTECTING, MAINTAINING AND IMPROVING THE HEALTH OF ALL MINNESOTANS

Highlights of this MDH Presentation

Phase III Federal Nursing Home Update
MDH Federal Complaint Integration
Trends surveys and complaint investigations

CMS Update: Nursing Home Phase III Update

F607 Abuse, Dev/Implementation policies & procedures

F659 Qualified persons: care plans

F919 Resident Call System

F837 Governing body

F866 QAPI

F699 Trauma Informed Care

F882 Infection Preventionist

F895 Ethics

F940 Training, Behavioral Health Training

Phase III CMS Update

CMS QSO Memo 20-03-NH

<https://www.cms.gov/files/document/qso-20-03-nh.pdf>

CMS will be releasing updated Interpretive Guidance and training for the Requirements for Participation for Long-Term Care (LTC) Facilities. However, this guidance will not be released by the November 28, 2019 implementation date of the regulations. We will be releasing the guidance in the second quarter of calendar year 2020, along with information on training and implementing related changes to The Long Term Care Survey Process (LTCSP). While the regulations will be effective, our ability to survey for compliance with these requirements will be limited until the Interpretive Guidance is released.

Phase III Update con't

- State survey agencies will not actively be surveying for the Phase III requirements.
- However if a situation arises that would refer to the new regulations in Phase III, it should be referred to the CMS regional office for review on a case-by-case basis.

CMS future updates

Federal Complaint Procedures: Chapter 5 Update

F 609 Reporting of alleged violations

Chapter 5 will not be updated prior to the interpretive guidelines for F609 being released.

CMS has indicated this is forthcoming.

Emergency Preparedness (EP) Resource

[CMS QSO 20-07 issued December 20, 2019](#)

[See - https://www.cms.gov/files/document/burden-reduction-discharge-planning-som-package.pdf](https://www.cms.gov/files/document/burden-reduction-discharge-planning-som-package.pdf)

- Helpful Document: Long Term Care Requirements CMS Emergency Preparedness Final Rule Updates Effective November 29, 2019

<https://files.asprtracie.hhs.gov/documents/aspr-tracie-cms-ep-rule-long-term-care.pdf>

Minnesota Federal Integration: rework our processes

- Effective December 3, 2018
- Federal triage: conducted by federally trained surveyors
- Use federal data base to triage all incidences for federal providers
- Federal complaint investigations & surveys conducted by an integrated unit, MDH Licensing & Certification Program

F880 Infection Control

§483.80 Infection Control

The facility must establish and maintain an infection prevention and control program designed to provide a safe, sanitary and comfortable environment and to help prevent the development and transmission of communicable diseases and infections.

F880 Examples

- Mechanical lift, and resident equipment not cleaned after use.
- Storing laboratory specimens next to food and medication in a refrigerator.
- Personal protective equipment (PPE) not used by housekeeping services in a resident room whom was on contact precautions.

F880 Examples

- Proper isolation techniques were not implemented appropriately for resident who was in isolation precautions.
- Personal protective equipment (PPE) was inappropriately utilized by nursing staff who were caring for residents in contact precautions.
- Inappropriate hand hygiene and gloves usage completed during and after personal cares.

F880 Examples

- The facility did not implement and maintain an infection control program that included data collection, analysis of facility infections, tracking and trending to reduce the spread of infections within the facility.
- The facility did not operationalize and implement their infection control program to prevent the spread of Norovirus.
- Infection control program only tracked and trended infections that were treated with an antibiotic.
- The facility did not develop and implement a comprehensive infection control program to include ongoing process and outcome surveillance, and routine analysis of the collected data to ensure infections were not spreading within the facility.

Federal Reporting F 600- F 610: CMS Clarification

CMS clarified with MDH that MDH must not issue any separate clarification related to reporting under federal nursing home regulations.

CMS clarified that the respective reporting regulations and related regulations found under F 600 - F610 are to be used by providers and the state survey agency.

Under the federal regulations, SNF/NFs should review the allegation and apply the information known about the allegation to the regulations for determining what is reportable.

Based on this, MDH is unable to issue a clarification other than the federal regulation about what is reportable.

Federal Tags F 600 - F 610

Follow F600-F610 related to federal reporting any alleged violations involving abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property.

Federal triage specialists triage all federal allegations. Allegations that do not meet the federal definitions of abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property are triaged as a No Action Necessary.

Tip

- Tip Self-Neglect:

self-neglect that occurs when a resident is in the facility is reportable to NHIR if meets federal definition for reportability.

MDH reviews ALL self-neglect MAARC reports and is currently finding that many of these should have been reported to NHIR and were not.

self-neglect that occurs when a resident is not in the facility and leaves the facility against medical orders is reportable to MAARC. This is because the county becomes involved.

Tips

Facility Reported Incidences (FRIs):

- Include as much detail in the initial NHIR report as able. This information is used to triage and determine if an onsite is required.
- If additional information is obtained prior to 5 day report, this may be submitted to MDH via NHIR.
- All FRIs are re-triaged by MDH after the 5 day investigative report is received.
- Some 5 day reports lack evidence of investigation. Reminder the 5 day report needs to be comprehensive

Tip

Injuries of unknown source need to meet certain criteria to be federally reportable.

An injury is classified as an “injury of unknown source” when both of the following criteria are met:

- The source of the injury was not observed by any person or the source of the injury could not be explained by the resident; and
- The injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma) or the number of injuries observed at one particular point in time or the incidence of injuries over time.

Tip

Tip: Residents with multiple altercations are prioritized for investigation.

Complaint Investigation Update

Federal fiscal year (FFY) 2018: 129 Immediate jeopardy complaint allegations investigated

FFY 2019: 451 Immediate jeopardy complaint allegations investigated

Investigation timeliness improved

Number of days to investigate immediate jeopardy allegations:

- decreased from 13.2 days in 2018 to just over 4 days in 2019

Meeting federal performance: two day timeframe

- FFY 2018: MDH did not meet the two day onsite requirements in 88 of 129 IJ complaint allegations
- FFY 2019: MDH did not meet the two day onsite requirements in 164 of 429 complaint allegations

Volume investigations increasing

FFY 2018 complaint allegations investigated: 823

FFY 2019 complaint allegations investigated: 2374

Average number of F Tag deficiencies

Federal Fiscal Year 2019 Complaints: 2.24

Federal Fiscal Year 2018 Complaints: 1.70

Federal Fiscal Year 2019 Surveys: 7.40

Federal Fiscal Year 2018 Surveys: 7.29

Federal Deficiency Data on QCOR

CMS Link to Deficiency Data:
<https://qcor.cms.gov>

FFY 2019 Top Ten Tags Issued by Number/Type during survey

F 880 Infection Control = 171

F 689 Free of Accident Hazards/Supervision = 123

F 677 ADL Care Provided for Dependent Residents = 114

F 684 Quality of Care = 107

F 761 Label/Storage Drugs = 91

F 686 Pressure Ulcer = 91

F 609 Reporting Alleged Violations = 76

F 758 Free from Unnecessary Psychotropic Medications = 71

F 688 Increase/Prevent Decrease in ROM/Mobility = 71

F 812 Food Procurement/Sanitary = 68

FFY 2019 Top Ten tags Issued by Number/Type During Complaint Investigation

- F 689 Free of Accident Hazards/Supervision = 97
- F 609 Reporting Alleged Violations = 96
- F 610 Investigate/Prevent/Correct Alleged Violation = 65
- F 684 Quality of Care = 57
- F 600 Abuse and Neglect = 41
- F 686 Pressure Ulcer = 33
- F 677 ADL Care Provided for Dependent Residents = 27
- F 760 Free from Significant Medication Error = 24
- F 580 Notify changes=22
- F 880 Infection Control = 19

FFY 2019 Top Ten Tags by Number/Type Issued G Above During Survey

F 689 Accidents = 22

F 686 Pressure Ulcer = 18

F 684 Quality of Care = 10

F 600 Free Abuse/Neglect = 6

F 697 Pain Management = 5

F 678 CPR = 4

F 880 Infection Control = 4

F 692 Nutrition/Hydration = 4

F 760 Free Significant Medication Error= 4

F 740 Behavioral Health Services = 2

FFY 2019 Top Ten Tags Issued by Number/Type G Above During Complaint Investigation

F 689 Accidents = 39

F 684 Quality of Care = 23

F 600 Free Abuse/Neglect = 20

F 686 Pressure Ulcer = 19

F 760 Free Significant Medication Error=13

F 678 CPR = 7

F 580 Notify changes = 3

F 697 Pain Management = 2

F 690 Bowel/Bladder = 1

F 660 Discharge Planning = 1

FFY 2019 IJ Number/Type Tags issued during survey

F 689 Free of Accident Hazards/Supervision = 8

F 600 Abuse and Neglect = 5

F 678 CPR = 4

F 880 Infection Control = 4

F 684 Quality of Care = 1

F 695 Respiratory/Tracheostomy = 1

FFY 2019 IJ Number/type Tags Issued During Complaint

F 600 Abuse and Neglect = 13

F 689 Free of Accident Hazards/Supervision = 9

F 678 CPR = 7

F 684 Quality of Care = 5

F 760 Free Significant Medication Error = 2

F 686 Prevention Pressure Ulcers = 2

F 580 Notify Change in condition = 1

F 695 Respiratory/Tracheostomy = 1

FFY 2020 Top Ten Tags Issued by Number/Type during survey: 1/19/20

- F 880 Infection Control = 29
- F 689 Free of Accident Hazards/Supervision = 20
- F 677 ADL Care Provided for Dependent Residents = 16
- F 812 Food Procurement/Sanitary = 16
- F 609 Reporting Alleged Violations = 15
- F 684 Quality of Care = 14
- F 688 Increase/Prevent Decrease in ROM/Mobility = 13
- F 686 Pressure Ulcer = 13
- F 610 Investigate/Prevent Alleged Violation = 12
- F 755 Pharmacy Services = 12

FFY 2020 Top Ten tags Issued by Number/Type During Complaint Investigation: 1/19/20

- F 689 Free of Accident Hazards/Supervision = 17
- F 609 Reporting Alleged Violations = 15
- F 610 Investigate/Prevent/Correct Alleged Violation = 13
- F 684 Quality of Care = 9
- F 677 ADL Care Provided for Dependent Residents = 8
- F 880 Infection Control = 8
- F 686 Pressure Ulcer = 8
- F 676 ADL Maintain Abilities = 5
- F 580 Notify changes=5
- F 600 Abuse and Neglect = 4

FFY 2020 Top Tags by Number/Type Issued G Above During Survey: 1/19/20

F 689 Free of Accident Hazards/Supervision = 13

F 686 Pressure Ulcer = 8

F 697 Pain Management = 4

F 684 Quality of Care = 4

F 600 Free Abuse/Neglect = 2

F 760 Free Significant Medication Errors = 2

F 678 CPR = 1

F 580 Notify Changes = 1

F 692 Nutrition/Hydration = 1

FFY 2020 Top Tags Issued by Number/Type G Above During Complaint Investigation: 1/19/20

F 689 Free of Accident Hazards/Supervision = 8

F 686 Pressure Ulcer = 3

F 760 Free Significant Medication Errors = 2

F 678 CPR = 1

F 697 Pain Management = 1

FFY 2020 IJ Number/type Tags Issued: 1/19/20

Survey:

F 689 Free of Accident Hazards/Supervision = 2

F 600 Free Abuse/Neglect = 1

Complaint Investigation:

F 689 Free of Accident Hazards/Supervision = 3

F 760 Free Significant Medication Errors = 2

F 678 CPR = 1

IJ Examples

F600: Abuse, Neglect

Sexual abuse resident to resident, verbal abuse staff to resident.

Staff to resident abuse, physical with injury/bruising.

Verbal abuse from staff to resident.

Resident left in room without provision of care 13 hours.

Sexual abuse staff to resident.

Immediate Jeopardy (IJ) Examples

F678: CPR

CPR not implemented as directed by the facility policy, when found unresponsive and CPR was not initiated. American Heart Association guideline for implementation of CPR were not followed.

Resuscitation preference had changed from CPR to DNR and the change was not consistently documented throughout R1's medical record.

IJ Examples

F684: Quality of Care

Nurses did not assess/monitor when there was a change in condition following dialysis treatments, resulting in falls with fracture.

Constipation with bowel obstruction resulting in hospitalization and death.

Staff did not appropriately assess, monitor, intervene, and notify physician and family after injury with a sudden change in status, resulting in death.

Resident with known food allergy was given the item and had anaphylaxis reaction that resulted in death.

IJ Examples

F689: Accidents & Supervision

Residents with multiple falls without completing a comprehensive assessment/analysis of falls to determine cause and then implement interventions to reduce the risk for falls, resulting in fractures.

Lack supervision for residents consuming alcohol, resulting in falls with injuries requiring medical treatment.

Staff did not follow policy/protocol for the use of a mechanical lift and had incorrect sling placement resulting in fall with injuries from the mechanical lift.

Resident at risk for elopement exited facility. The facility was not monitoring elopements & notification system failed.

Resident left for an appointment without supervision, and did not return to the facility & was missing.

Inappropriate use of a sling sheet, resulting in fall with fracture.

IJ Examples

F760: Significant Medication Errors

Medication error, when resident had acute decline in medical condition following the abrupt discontinuation of a narcotic opioid requiring hospitalization for withdrawal symptoms and cardiac monitoring.

Received incorrect Coumadin dosing and required hospitalization with a critical INR and treatment for hemorrhage.

A person with diabetes received insulin not timely resulting in adverse reaction and resident became unresponsive.

Received another resident's cardiac medications, resulting in low BP, low oxygen and death.

Medication not given as directed resulting in seizures and hospitalization.

IJ Examples

F584: Environment

Heating system was not functioning at safe levels.

F695: Oxygen

Resident was not supplied needed oxygen when on an appointment away from facility, causing difficulty breathing.

F745: Medical Related Social Services

Resident discharged to homeless shelter without medical services and medications.

IJ Examples

F880: Infection Control

Residents contracted influenza; facility did not implement appropriate transmission based precautions and surveillance resulting in additional residents becoming ill.

Residents contracted GI symptoms; facility did not implement appropriate transmission based precautions and surveillance resulting in additional residents becoming ill.

Mary Absolon

Mary.Absolon@state.mn.us

651-201-4100

Pam Malterud-for questions about
complaints

Pam.Malterud@state.mn.us

218-308-2129

MDH Contact Information

Maria King

Maria.King@state.mn.us

507-344-2716

Brenda Fischer

Brenda.Fischer@state.mn.us

320-223-7338

**Thank you for making a
positive difference!**