

Final Rule

REQUIREMENTS OF PARTICIPATION FOR LONG-TERM CARE

Requirement of Participation (RoP)

- RoP are the requirements that nursing facilities (NF) must meet in order to participate in the Medicare and Medicaid program.
- Since most NF provides either Medicare, Medicaid, or both, the RoP impact almost every NF in the state and nation.
- The RoP's scope is significant. The RoPs regulate nearly every aspect of how a NF functions, including, but not limited to, administration, care plans, training requirements, staff requirements, dietary, infection control, etc.

RoP: Final Rule

- Largest regulatory overhaul of NF's in 25 years.
- The final rule released by CMS is 713 pages of comments and regulations.
- The final rule was released on 10/4/16 with 60 days for implementation on 11/28/16.
- The final rule makes sweeping changes in policy, procedures, hiring, operations, etc.
- CMS estimates the total projected cost of this final rule will be about \$831 million in the first year and \$736 million per year for subsequent years.
- CMS: *Overall goal to improve the quality of life, care, and services in LTC facilities, optimize safety, reflect current professional standards, and improve the logical flow of the regulations.”* and *“These revisions are also an integral part of our efforts to achieve broad-based improvements both in the quality of health care furnished through federal programs, and in patient safety, while at the same time reducing procedural burdens on providers.”*
 - Many providers would disagree with CMS in regards to the RoP reducing procedural burdens.

3-Phase Implementation Schedule

The regulations included in Phase 1
must be implemented by
11/28/2016

The regulations included in Phase
2 **must** be implemented by
11/28/2017

The regulations included in Phase 3
must be implemented by 11/28/19

Phase 1 – Definition and Policy Changes

- *Resident Rights**
- *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 – Operational Changes

Phase 2

- *Behavioral Health Services**
- *Quality Assurance and Performance Improvement* - QAPI Plan*
- *Infection Control – Facility Assessment and Antibiotic Stewardship***
- *Physical Environment – smoking policies**

Phase 3

- *Quality Assurance and Performance Improvement* - Implementation of QAPI*
- *Infection Control – Infection Control Preventionist**
- *Compliance and Ethics*
- *Physical Environment – call lights at resident bedside**
- *Training**

Freedom from Abuse, Neglect and Exploitation

- Requires all allegations involving abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property, are reported immediately, but not later than 2 hours after the allegation is made.
 - This is a major change from a previous 24 hour reporting requirement.
 - A facility's written policies and procedures must include the new training requirements for abuse, neglect and exploitation
 - Addresses and expands upon the list of individuals whom a facility may not employ or otherwise engage (includes volunteers and contractors).
 - Focus on accountability for contracted staff

Facility Assessment, Staff Competencies, and Training Requirements

- Annual Facility Assessment documents resources necessary to care for residents competently during day-to-day operation and in emergencies
- Adds competency-based staffing approach
 - Evaluate resident population vs. resources to determine staffing plan and assignments
- New section that sets forth all the requirements of an effective training program that facilities must develop, implement, and maintain for all new and existing staff, individuals providing services under a contractual arrangement, and volunteers, consistent with their expected roles.
- Dementia management training expanded

Resident-Centered Care Plans

- Baseline Care Plan: requires facilities to develop a baseline care plan for each resident, **within 48 hours of their admission**, which includes the instructions needed to provide effective and person-centered care that meets professional standards of quality care.
- Adds a nurse aide and member of the food and nutrition services staff to the interdisciplinary care plan team
- Participation of resident and/or representative for development of care plan to the extent possible
- Includes a provision for culturally competent and trauma-informed care

Pharmacy Services

- Drug regimen and medical record review requirements
- Added the Medical Director to the individuals who should be notified of irregularities
- Added a requirement that facilities establish policies and procedures to address the entire DRR process, including timeframes for various actions and the process for a pharmacist to follow when immediate action is needed
- 14-day limitation on PRN orders for psychotropic medications. There is an exception for psychotropic drugs that the attending physician believes are needed for a longer than 14-day period.

Other Significant Changes

- Infection Control:
 - Mandate of new Infection Preventionist (IP) position;
 - Antibiotic Stewardship program; and
 - Infection Prevention and Control Program (IPCP).
- Mandate of Compliance and Ethics program:
 - Assignment of a high-level personnel with responsibility to oversee compliance such as, but not limited to, the CEO and Board – training will be needed
- Additional requirements for organizations with 5 or more facilities:
 - Conduct mandatory annual staff training
 - Designate a compliance officer that reports to governing body that is not subordinate to general counsel, CFO, or COO
 - Designate a compliance liaison at each facility
- Quality Assurance and Performance Improvement (QAPI)
 - QAPI plan requirements
 - QAPI program
 - Staffing attendance requirements to support - a systematic, comprehensive, and data-driven approach to quality improvement.

RoP Impact to Providers

- CMS estimates the total projected cost of this final rule will be about \$831 million in the first year and \$736 million per year for subsequent years.
- The average costs per facility are estimated to be about \$62,900 in the first year and \$55,000 per year for subsequent years.
 - These cost account for hundreds of hours of training, policy changes, and new ongoing positions.
 - However, CMS underestimated the burden of implementing phase 1, so numbers may be much higher.
- When LSA estimates a need of \$45 million for NF rebase, the additional financial burdens from the RoP regulations, which are not reflected in the LSA estimate, is putting a strain on NF resources and staff.

Questions?

Matt Blake

Director of Government Relations

LeadingAge Iowa

mblake@leadingageiowa.org

W: 515-440-4630

C: 605-222-7454

Liz Davidson

Director of Clinical Services

LeadingAge Iowa

ldavidson@leadingageiowa.org

515-440-4630