Reform of Requirements for Long Term Care Facilities and the New LTC Survey Process

Presented by:
Kimberly Smoak, MSH, QIDP
Chief of Field Operations
Health Quality Assurance

Agency for Health Care Administration
March 2017
Objectives

• Provide an overview of the revised survey process.
• Discuss timelines for implementation of the revised survey process.
• Discuss the Phase I implementation of the federal long term care requirements.
New Survey Process
Proposed New Process

• Will be computer based

• Two Parts
  – Sample Selection
  – Investigation
Sample Size

- Based on facility census
- Sample Split:
  - 70% offsite using MDS algorithm
  - 30% selected onsite
MDS Algorithm Indicators

• 70% of the sample
  – MDS indicators covering high risk areas
  – Some indicators are paired with certain conditions
  – Sample based on prevalence rate
  – Facility Matrix Report
Remaining 30% Sample Section

- Selected onsite by surveyors
- High risk, vulnerable residents
- New admissions in last 30 days
- Active complaints
- Other residents with identified concerns
Sample Selection Process

• Day 1 = Interview and observe potential sample residents, review record/matrix, as needed
  – Cover QOL and QOC categories
  – Ask questions as you would like
  – Determine if concern warrants investigation

• Day 1/Day 2 = Finalize sample
Investigative Process

• Remainder of survey = investigating residents and tasks

• Facility Tasks:
  – Required/Concern specific tasks
  – Resident Council Meeting
  – New ABN Beneficiary Notice Survey Process
Implementation Timeline

• November 2017
  – Type of Change
    • F Tag numbering Interpretive Guidance (IG) Implement new survey process
    • New F Tag numbers, IG Changes and Begin surveying with the new survey process
Provider and Industry Communication

- Various modes of communication
- Overview of new process
- Encouraging providers to be prepared for the survey process
- Feedback
Centers for Medicare and Medicaid Services Reform Requirements for Long Term Care Facilities
Background

• The federal requirements for Long-Term Care (LTC) Facilities are the health and safety standards that LTC facilities must meet in order to participate in the Medicare and Medicaid Programs.

• The current requirements are found at 42 CFR 483, Subpart B.

• These requirements have not been comprehensively updated since 1991.
LTC Regulation Revisions

• Finalized provisions reflect
  – Advances in the theory
  – Practice of service delivery
  – Safety
  – Implement sections of the Affordable Care Act (ACA)
Improvement

• Key Areas
  – Quality of Life
  – Health Care
  – Services
  – Patient Safety
Themes of the Rule

- Person Centered
- Quality
- Facility Assessment & Competency based approach
- Competency of Staff
- Resident Rights
- Infection Control
Themes of the Rule

• Strengthened Transfer
• Discharge Protections
• Alignment with current HHS initiatives
• Comprehensive review and modernization
• Implementation of legislation
Implementation

• Effective Dates:
  – Phase 1: November 28, 2016
  – Phase 2: November 28, 2017
  – Phase 3: November 28, 2019
Phase I Overview

• Effective 11/28/2016
  – Full implementation of Basis and Scope and Definitions
  – Regulatory Groupings become **Regulatory Sections**, Expand from 15-21
  – Full Implementation of 5 Regulatory Sections
  – Minor Modifications to 15 other Regulatory Sections
  – 20 of 21 Regulatory Sections have all or some regulations implemented in Phase 1
Regulatory Sections Fully Implemented

- Resident Assessments (483.20)
- Quality of Life (483.24)
- Physician Services (483.30)
- Laboratory, radiology, and other diagnostic services (483.50)
- Specialized Rehabilitation (483.65)
New Regulatory Sections

• Freedom from Abuse, Neglect, and Exploitation (483.12)
• Comprehensive Person-Centered Care Planning (483.21)
• Behavioral Health Services (483.40)
• Laboratory, radiology, and Other Diagnostic Service (483.50)
• Quality Assurance and Performance Improvement (483.75)
• Training Requirements (483.95)
• Compliance and Ethics Program (483.85)
What’s New
483.5 Definitions

• Abuse
• Adverse Event
• Exploitation
• Misappropriation of resident property
• Mistreatment
• Neglect
• Person Centered Care
• Resident Representative
• Sexual abuse
• Willful
483.10 Resident Rights

• Retaining all existing residents’ rights
• Updating the language and organization of the resident rights provisions
• Clarifying regulations where necessary
• Updating provisions to include advances
483.10 Resident Rights-continued

- F151
  - Resident has the right to exercise rights without interference.
- F152
  - Competent residents have the right to designate a resident representative.
  - Equal treatment of a same sex-spouse.
  - Resident representative exercises their decision making.
  - Resident retains right to make decision outside representatives authority.
  - Report concerns about a resident representative as required by State law.
483.10 Resident Rights-continued

• F153
  – Personal and medical records are provided as requested by the individual.
  – Records are provided in a manner the resident can understand.
  – A reasonable, cost based fee.
483.10 Resident Rights-continued

• F155
  – Moves to quality of life.
  – Resident also has the right to request and/or discontinue treatment or to participate in experimental research.
  – Advances-Directives-provided by facility or an outside contractor.
  – If adult individual was incapacitated at the time of admission, the information provided to the resident representative and then to the resident.
483.10 Resident Rights-continued

• F156
  – Residents are aware of who and how to contact other primary care professionals, received notification such as expanded resources, home and community based service programs, able to request information about returning to the community.
  – Made aware of changes to charges for services not covered under Medicare/Medicaid.
  – Refunds were made to the resident, resident representative or estate.
  – Admission contract did not conflict with requirements of the regulations.
483.10 Resident Rights-continued

• F158
  – Resident is informed of charges in advance.

• F159
  – There are now differing dollar amounts for Medicaid residents with other residents.

• F160
  – Conveyance of funds for discharge or evicted residents.
483.10 Resident Rights-continued

• F162
  – Residents are not charged for food and nutrition or hospice services.
  – Items and services that maybe charged to resident if not required to achieve residents goals.
  – Facility has considered resident food and cultural preferences for meals.
  – Resident was informed of any item or service when there is a charge.
483.10 Resident Rights-continued

- **F163**
  - Verify the physician is licensed to practice in the state.
  - Determine if resident was informed that their physician is unable or unwilling to meet the requirement, and the facility is seeking an alternate physician.
  - Ensure residents choice of physician.

- **F164**
  - Ensure medical records are kept confidential.
483.10 Resident Rights-continued

• F166
  – Determine residents have information on how to file a grievance or complaint.
  – Ensure that there is a grievance policy.

• F167
  – Ensure the most recent survey results during the past 3 preceding years, as well as certification and complaint investigations are posted and readily accessible.
  – Ensure that identifying information about complainants or residents are not available.
483.10 Resident Rights-continued

• F168
  – Ensure facility staff did not prohibit or discourage a resident from communicating with external entities.

• F169
  – Facility can not require a resident to perform services for the facility.
483.10 Resident Rights-continued

• F170
  – Privacy of electronic communications is provided.
  – Resident is able to receive mail/packages from other than the postal services.

• F171
  – Facility supported residents right to communication, including the ability to send mail.
483.10 Resident Rights-continued

• **F172**
  – Right to receive visitors at the time of their choosing.
  – Facility policy includes visitation rights.
  – Resident and visitors informed of policy.
  – Facility staff do not restrict, limit or deny visitation privileges.
  – Privileges are consistent with residents preferences.

• **F174**
  – Expanded access to cell phone use, TTY and TTD services.
483.10 Resident Rights—continued

- F175
  - Right to choose a roommate.

- F176
  - How the facility determined self-administration was clinically appropriate.

- F177
  - Facility may not perform a transfer solely for convenience of staff.
483.10 Resident Rights-continued

- F240
  - Every resident is treated with respect and dignity.
  - Policies for practice such as transfer, discharge and equal access to services regardless of payment source.
- F242
  - Resident right to choose has been expanded.
- F243
  - Notify residents and family of upcoming meetings in a timely manner.
483.10 Resident Rights-continued

- F244
  - Facility provided response and the rationale for their response.

- F247
  - Notice was provided in writing and included the reason for change.

- F252
  - Environment maximizes residents independence.
  - Responsibility for the protection of the residents property.

- F280
  - Residents participation in his/her person-centered care plan.
483.12 Freedom from Abuse, Neglect and Exploitation

• Strengthens existing protections, in addition to review of policies and procedures.
• Adds language related to resident “right to be free from neglect” and “exploitation.”
• Requires facilities to investigate and report all allegations of abuse conduct.
• Individuals who had a disciplinary action taken against their professional license by a state licensure body can not be hired by facilities.
483.12 Freedom from Abuse, Neglect and Exploitation-continued

- **F223**
  - Continue to review citations relate to abuse, corporal punishment, and involuntary seclusion at F223.
  - New definitions for “abuse” and “sexual abuse.”

- **F224**
  - Will be cited if the facility failed to ensure residents are free from neglect, misappropriation and exploitation.
483.12 Freedom from Abuse, Neglect and Exploitation-continued

- F225
  - Facility requirement is not limited to only facility employees but also individuals the facility engages.
  - Alleged violations must be reported immediately.
  - Immediate reporting also includes to the State APS agency.
483.12 Freedom from Abuse, Neglect and Exploitation-continued

• F226
  – Will continued to be cited when facility has failed to develop and implement policies and procedures to prohibit abuse, neglect, misappropriation of resident property and exploitation.
483.12 Freedom from Abuse, Neglect and Exploitation-continued

• F221
  – Physical restraints

• F222
  – Chemical restraints
  – When restraints are used the facility must:
    • Use least restrictive alternative for the least amount of time, and
    • Document ongoing re-evaluation of the need for restraints.
483.15
Admission, Transfer and Discharge Rights

• Transfer or discharge to be documented in medical record, including specific information which should be exchanged with receiving provider or facility when a resident is transferred.
483.15
Admission, Transfer and Discharge Rights-Continued

• F201
  – Requires additional documentation- if facility has transferred or discharge resident while an appeal is pending.
483.15
Admission, Transfer and Discharge Rights-Continued

• F203
  – Requires facility to send a copy of the transfer or discharge notice to the ombudsman.
  – Requires facility to provide resident and/or representative with additional information in the notice regarding the process for appealing transfer/discharge.
  – Requires facility to update recipients of transfer/discharge notice of any changes to the notice as soon as possible, if the changes occur prior to the transfer/discharge.
483.15
Admission, Transfer and Discharge Rights-Continued

• F204
  – New regulatory language at F204 adds that the orientation facilities provided to the residents regarding transfer or discharge must be in a manner they understand.
483.15
Admission, Transfer and Discharge Rights-Continued

• F205
  – Changes “readmission” to “return.”
  – New language requires the facility to provide written information to residents or representative about payment needed to hold a beds if the individual state requires payments to hold beds.
483.15
Admission, Transfer and Discharge Rights-Continued

• F206
  – If facility decides a residents cannot return to facility, the facility would then discharge residents.
  – “Readmission to a composite distinct part” provision is not new, but has been added to F206 if concerns are identified.

• F207
  – “Room changes in a composite distinct part” is not new, but has been added to F207 since it may indicate unequal treatment of residents.
483.15
Admission, Transfer and Discharge Rights-Continued

• F208
  – Ensure facility has not required resident to waive potential facility liability in the event of loss of property.
  – Facility to disclose any specific characteristics or limitations of facility.
483.20 Resident Assessment

• Clarification to what constitutes appropriate coordination of a resident assessment with Preadmission Screening and Resident Review (PASARR) program under Medicaid.
483.20 Resident Assessment-Continued

• F272
  – Residents strengths, goals, life history and preferences in his/her comprehensive assessment.
  – Evidence of resident and direct care staff participation.
483.20 Resident Assessment-Continued

• F285
  – Coordination Includes:
    • Incorporating recommendations from PASARR level II determination and evaluation report.
    • Significant change in status- referring all level II residents with newly evident or possible serious mental disorder, intellectual disability, or a related condition for level II resident review.
483.20 Resident Assessment-Continued

• F286
  – Updated language as “and use the results of the assessments to develop, review and revise the residents comprehensive care plan” was not previously included in the SOM.
483.21 Comprehensive Person-Centered Care Planning

- Addition of nurse aide and member of the food and nutrition services staff to required members of interdisciplinary team that develops care plan.
- Requires facilities to develop and implement a discharge planning process.
- Implementing discharge planning requirements mandated by The Improving Medicare Post-Acute Care Transformation Act of 2014.
483.21 Comprehensive Person-Centered Care Planning-Continued

• F279

  – The Care Plan Must:
    • Be centered on resident’s needs and include measureable objectives and timeframes.
    • Include specialized services facility will provide as a result of the PASARR.
    • Have a documented rationale in medical record if they disagree with the PASARR findings.
    • Include goals for admission and discharge preferences.
483.21 Comprehensive Person-Centered Care Planning

- F280
  - Facility involved a nurse aide responsible for resident and member of food and nutrition service, along with attending physician and a registered nurse.
  - Any other professionals needed in development of the care plan as based on residents care needs.
  - Facility has reviewed and revised care plan after each assessment for both comprehensive and quarterly assessments.
483.21 Comprehensive Person-Centered Care Planning

• F281
  – Services outlined in comprehensive care plan must meet professional standards of quality.

• F283
  – When discharge is anticipated for a resident the facility must have a discharge summary.
483.21 Comprehensive Person-Centered Care Planning

• F284
  – Discharge Planning
    • Begins on admission.
    • Included in care plan.
    • Must involve resident and/or representative, and be developed by the interdisciplinary team.
    • Document from the local contact agency (LCA) if resident wishes to be discharged to community.
    • Facilities must assist the resident/representative wishing to be discharged.
483.24 Quality of Life

- No new requirements
- “Highest Practicable Well-Being” language in this section
- Each resident to receive and facility to provide the necessary care and services to attain or maintain the highest practicable well-being, consistent with the resident’s comprehensive assessment and plan of care.
• F309
  – Resident receives dialysis according to care plan.
  – Each staff provides dialysis care consistent with current professional standards of practice.
483.24 Quality of Life-Continued

- F310
  - Now under Quality of Life.
  - Adds oral care and expanded to include dining.
- F311 and F312
  - Also moved to Quality of Life.
483.25 Quality of Care

- Added special care issues, many of which were cited under F309, if there were care issues.
- Specific areas such as, restraints, pain management, bowel incontinence, and dialysis services.
- Comprehensive assessment of a resident.
483.25 Quality of Care-Continued

• F313 and F314
  – No significant changes.

• F315
  – Residents who are continent receive services to maintain continence;
  – Residents with or admitted with a catheter are assessed for removal as soon as possible; and
  – Residents with fecal incontinence receive appropriate treatment and services to restore as much bowel function as possible.
483.25 Quality of Care-Continued

• F323

  – Facility must attempt to use appropriate alternatives prior to installing a side or bed rail and ensure correct installation, use and maintenance including, but not limited to:
    • Assessing the resident for risk of entrapment.
    • Review risks and benefits of bedrails.
    • Ensure bed demission's are appropriate.
483.25 Quality of Care-Continued

• F328
  – Expanded regulatory language in the areas of:
    • Foot care
    • Colostomy, ureterostomy, or ileostomy care
    • Parental fluids
    • Respiratory care
    • Prostheses
483.30 Physician Services

• Attending physicians to delegate dietary orders to qualified dietitians or other clinically qualified nutritional professionals and therapy orders to therapists.
483.30 Physician Services—Continued

• F385
  – Orders to meet the immediate care and needs of the resident.

• F390
  – If dietitian, other clinically qualified nutrition professional, or a qualified therapist has been delegated the task of writing orders:
    • They are able to do in accordance with State law.
    • The written order was delegated by physician.
    • They are acting under the supervision of a physician.
483.35 Nursing Services

• Addition of competency requirement for determining the sufficiency of nursing staff, 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.
483.35 Nursing Services-Continued

• F353
  – Sufficient nursing staff with the appropriate competencies and skill sets to provide nursing and related services to each resident.
  – Sufficient number of nurse aides, along with other nursing personnel, on a 24 hour basis to provide nursing care to all residents in accordance with resident’s care plans.
483.35 Nursing Services-Continued

• F497
  – In-service training
    • Include dementia management and abuse.
    • Prevention in regular in-service education for all nurse aides.
483.40 Behavioral Health Services

• Comprehensive assessment and medically related social services.

• New requirement, incorporates highest practicable well-being, specialized rehabilitation, and medical social services.
483.40 Behavioral Health Services—Continued

• F319
  – Review of residents who display and/or diagnosed with mental disorder or psychosocial adjustment difficulty.
  – Facility must correct resident’s assessed problem or assist resident in attaining their highest practicable mental/psychosocial well-being.

• F320
  – Residents who do not have a diagnosis of mental disorder or psychosocial adjustment difficulty to ensure they do not have an avoidable decrease in social interaction since admission to the facility.
483.45 Pharmacy Services

- Pharmacist must review a resident’s medical chart during each monthly drug regimen review.
- Revision of existing requirements.
- Define “psychotropic drug” as any drug that affects brain activities associated with mental processes and behavior.
483.45 Pharmacy Services-Continued

• F428
  – Requires new process for medication regimen review (MRR) and requires facilities to develop and maintain policies and procedures to address all aspects of the MRR.
483.50 Laboratory, radiology and other diagnostic services

- A physician assistant, nurse practitioner, or clinical nurse specialist may order laboratory, radiology, and other diagnostic services for a resident in accordance with state law, including scope of practice laws.
483.50 Laboratory, radiology and other diagnostic services-Continued

- F504
  - Facility provides or obtains laboratory services.

- F505
  - Facility staff promptly notifies the ordering physician, physician assistant, nurse practitioner, or clinical nurse specialist.
483.50 Laboratory, radiology and other diagnostic services-Continued

• F510
  – Facility provides or obtains radiology and other diagnostic services.

• F511
  – Facility staff promptly notifies the ordering physician, physician assistant, nurse practitioner, or clinical nurse specialist.
483.55 Dental Services

• F411
  – Assistance is not only provided when deemed necessary, but also when requested by resident.
  – Transportation is provided.

• F412
  – Facility submits an application for reimbursement of dental services under the State plan, if the resident is eligible and wish to participate.
483.60 Food and Nutrition Services

• Facilities to provide each resident with a nourishing, palatable, well-balanced diet that meets his or her daily nutritional and special dietary needs, taking into consideration the preferences of each resident.
483.60 Food and Nutrition Services-Continued

- Facilities to employ sufficient staff, including designation of a director of food and nutrition service, with appropriate competencies and skills sets to carry out the functions of dietary services.
483.60 Food and Nutrition Services-Continued

• F360
  – Resident preferences

• F361
  – Demonstration of staff competencies and skills in food service.
  – Explicit regulatory requirement to meet State requirements for food service or dietary managers.
483.60 Food and Nutrition Services-Continued

• F362
  – Change in language from “competent” to “safely and effectively.”
  – Verify who from the Food and Nutrition Services staff is participating on the IDT.

• F363
  – Menu must reflect the religious, cultural, and ethnic needs of the resident population and input from residents and resident groups.
483.60 Food and Nutrition Services-Continued

• F364
  – Drinks from now meet these requirements.
  – Expanded to include meeting hydration needs and preferences regarding fluids.

• F366
  – Accommodating resident allergies, intolerances and preferences.
483.60 Food and Nutrition Services-Continued

• F368
  – Meals meeting resident needs, preferences, requests, care plan are now explicitly required.
  – Alternative meals/snacks provided.

• F369
  – Appropriate assistance provided to residents to use assistive devices when consuming meals and snacks.
483.60 Food and Nutrition Services-Continued

• F371
  – Food from local procedures meeting applicable state and local laws and regulations.
  – Produce from facility gardens are grown and handled safely.
  – Residents are able to have foods from outside the facility.
483.65 Specialized rehabilitative services

- Addition of respiratory services to those services identified as specialized rehabilitative services.
483.70 Administration

• F251
  – Social workers- bachelors degree can now include gerontology.

• F492
  – Regulatory language provides additional protection against discrimination and for protection of health information.
483.70 Administration-Continued

- **F493**
  - Administrator reports to and accountable to the governing body.

- **F514**
  - Medical records new language included.

- **F519**
  - Transfer of resident to hospital by another practitioner.
  - Exchange of information.
483.70 Administration-Continued

• F523
  – Written notification of an impending closure must be submitted by the facility to the following:
    • State Survey Agency
    • State LTC Ombudsman
    • Residents in the facility
    • Legal representative of the residents
483.70 Administration-Continued

• F526 (new tag for hospice services)
  • Nursing homes must develop and implement a written agreement between the nursing home and Medicare certified hospice, **if the nursing home chooses** to allow a Medicare certified hospice to provide hospice care and services in the nursing home.
483.70 Administration-Continued

• F527 (new tag for submitting staffing data)
  – Facilities must now submit electronically to CMS complete and accurate staffing information.
483.75 Quality Assurance and Performance Improvement

- Facilities will develop, implement and maintain effective comprehensive, data driven QAPI program that focuses on systems of care, outcomes of care and quality of life.
483.75 Quality Assurance and Performance Improvement—Continued

• F520
  – Clarifies committee members.
  – Facility must report to their governing body or designated persons regarding activities.
  – Must meet quarterly.
483.80 Infection Control

• F441
  – Develop and implemented an infection control program:
    • When and to whom to report infections.
    • What types of transmission-based precautions will be used and when to use them.
    • Infection control incidents and facility corrective actions.
Facilities that are constructed, re-constructed, or newly certified after the effective date of this regulation to accommodate no more than two residents in a bedroom and to have a bathroom equipped with a least a commode and sink in each room.
483.90 Physical Environment-Continued

• F461
  – Follow manufactures recommendations and specifications for installing and maintain bed rails, and conduct regular inspection.
483.95 Training Requirements

• New section to subpart B
• Facilities must develop, implement, and maintain an effective training program for all new and existing staff
• Other individuals must be trained, consistent with their specific roles
  – Contract staff
  – Volunteers
483.95 Training Requirements-Continued

• F495
  – Addresses required in-service training for nurse aides.
  – Includes dementia management training and resident abuse prevention training.
Contact Information

Kimberly Smoak
850-412-4516

Kimberly.Smoak@ahca.myflorida.com