SNF PPS Clarifications Memo V1.1, March 2012

This memo provides clarification for certain SNF PPS payment and assessment completion policies.

As a general note on the information contained in this memo, many of the payment-related items provide examples which refer to specific days within a resident's SNF stay. This is done in order to make clear how the various assessments interact with the resident's Medicare assessment calendar and with the other assessments. However, when a claim is submitted for SNF services, the three pieces of information that would be necessary to receive payment for a resident classifying to a given RUG group on an assessment are the HIPPS code (which is a combination of the three-character RUG code and the two-character Assessment Indicator), the ARD of the assessment that generated this HIPPS code, and the number of days that should be billed using that HIPPS code. Therefore, while the examples below make reference to billing for specific days during the stay, the important thing for facilities to keep in mind is to bill for the appropriate number of days for a given assessment.

1. Clarification regarding instances when assessments are not combined properly.

Answer: As noted in the RAI Manual, Section 2.8, there are certain instances when scheduled and unscheduled PPS assessments must be combined. Specifically, if the ARD for an unscheduled PPS assessment falls within the ARD window (including grace days) of a scheduled PPS assessment, and the ARD for the scheduled assessment would be set for a day after that of the unscheduled assessment, then the assessments must be combined.

There may be times when scheduled and unscheduled PPS assessments are not combined properly. In a past clarification, CMS had indicated that the assessments would be treated "as if" they had been combined properly. This was intended to indicate that, from a billing perspective, the unscheduled assessment would be used to set payment, since that is the assessment with which the scheduled assessment would have been combined. Despite this clarification, there was still some confusion regarding cases where scheduled and unscheduled assessments were not combined properly. Therefore, we wish to clarify that if a scheduled assessment ARD is set for a day that is after the ARD set for an unscheduled assessment, and the ARD for the unscheduled assessment is set for a day within the scheduled assessment ARD window, then the scheduled assessment is not used for payment purposes.

In other words, in cases where an unscheduled and scheduled assessment were supposed to be combined, but were not, the payment is controlled by the unscheduled assessment.
Consider the following examples: Example 1. If the ARD of an EOT OMRA is set for Day 14 and an ARD of the 14-day assessment is set for Day 15, this would violate the combined

assessment policy. Consequently, the EOT OMRA would control the payment. The EOT would begin payment on Day 12, and continue paying into the 14-day payment window until the next scheduled or unscheduled assessment used for payment.

Example 2. A COT OMRA has an ARD of Day 13 and a 14-day assessment is completed separately with an ARD of Day 15. The COT OMRA in this case would begin paying on Day 7 (which is Day 1 of the COT observation period associated with that COT OMRA), pay through Day 15, and continue until the next scheduled or unscheduled PPS assessment used for payment. Additionally, the next COT evaluation date is Day 20, since that is 7 days after the ARD of the COT OMRA. The completion of the 14-day assessment with an ARD of Day 15 in this example means that the ARD was set improperly and, therefore, that the 14-day assessment would not be used for payment.

It should be noted that the above clarification of the combined assessment policy is not intended to replace or change the policy that if a scheduled assessment's ARD is set for on or prior to day 7 of the COT observation period, the COT OMRA is not required. However, the facility may elect to combine the scheduled assessment and the COT OMRA as long as the ARD on day 7 of COT observation is within the ARD window of the scheduled assessment. This represents a potential exception to the combined assessment policy which facilities may choose to use in appropriate cases. For example, if a COT OMRA has an ARD set for Day 13 and the facility sets the ARD of the 14-day assessment for Day 13, then the facility may choose either to complete only the 14-day assessment or to combine the 14-day assessment and COT OMRA. However, if the ARD of the 14-day assessment were to be set for Day 14, then this would violate the combined assessment policy. In such a scenario, the COT OMRA would still be required with an ARD of Day 13, and the 14-day assessment would not be used for payment.

This clarification is not intended to rescind this exception related to the COT OMRA but merely to describe what would occur in cases where the scheduled assessment’s ARD was improperly set for a day that is after the ARD set for an unscheduled assessment, where the unscheduled assessment’s ARD falls within the scheduled assessment’s ARD window.

2. Clarification regarding the term “used for payment”.

Answer: An assessment is considered to be “used for payment” in that it either controls the payment for a given period or, in the case of scheduled assessments, may merely set the basis for payment for a given period. This concept is relevant in evaluating a given assessment’s impact on the COT ARD calendar. In general, the COT ARD calendar is only affected by an assessment used for payment. The only exception to this policy is a late assessment where an intervening assessment (described below) has been completed. In such cases, the intervening assessment

controls the COT ARD calendar, while the late assessment in this case only serves to establish a default payment until the point at which the intervening assessment begins to control payment. Consider the following example: A 30-day assessment that is completed with the resident discharging from Part A on Day 29 is not considered an assessment used for payment, since the 30-day assessment would not control payment (or set the basis for payment) until Day 31. On the other hand, a 30-day assessment which is followed by the resident discharging on Day 32 is an assessment used for payment, since the 30-day assessment controls payment (or at least sets the basis for payment) beginning on Day 31.

To be clear, the term "used for payment" is most notable in cases where a scheduled assessment has an ARD set for on or prior to Day 7 of the COT observation period but the resident discharges from the facility before the beginning of the standard payment window. In this situation the scheduled assessment is not an assessment used for payment and the COT OMRA would still be required (see the discussion below related to the completion and encoding periods to see how this situation may be rectified without penalty). If the scheduled assessment has an ARD set for on or prior to Day 7 of the COT observation period and the resident does not discharge from the facility prior to the beginning of the standard payment window associated with that scheduled assessment, regardless of whether or not the scheduled assessment would appear on a claim, then this is considered an assessment used for payment and the COT OMRA calendar would be reset by the ARD of this scheduled assessment.

3. Clarification regarding setting the ARD for unscheduled PPS assessments.

Answer: As stated in the August 23rd clarification memo (which can be found on the CMS SNF PPS website), the ARD for unscheduled PPS assessments can be set for a day within the allowable ARD window after the ARD window has passed. As with the flexibility period allowed for the assessment interviews, the flexibility period for setting the ARD for unscheduled PPS assessments was always intended to be a 1-2 day period, though the previously-issued language may not have been sufficiently specific in establishing the precise end point for the given flexibility as it applied to the ARD for unscheduled PPS assessments. Therefore, we now wish to clarify that the one- to two-day limit is a firm limit on a SNF's ability to exercise this option. In other words, facilities are permitted to set the ARD for an unscheduled PPS assessment for a day within the allowable ARD window, but may only do so no more than two days after the window has passed.

For example: If the third day of missed therapy fell on July 4 and no one was available to set the ARD on this assessment, then the facility could set the ARD for July 4 no later than July 6. To be clear, this should not be considered the same as grace days, which may be used in setting the ARD for a scheduled PPS assessment. In the case of grace days, the ARD for a scheduled PPS assessment may be set for one of the grace days, such as a 5-day assessment with an ARD set for

Day 8. By contrast, the two-day flexibility period that applies to unscheduled PPS assessments is different, in that the ARD itself may not be set for one of the two days after the available ARD window. For example, while the decision to set the ARD for a COT OMRA at Day 7 of the COT observation period can occur up to 2 days after Day 7 has passed, the ARD for the COT OMRA may not itself be set for Day 8 or Day 9 without incurring a late assessment penalty.

In certain cases, it is possible that a resident might discharge from the facility unexpectedly during the two day flexibility period. In such cases, the flexibility period still exists and the facility may still set the ARD on the given assessment for a day within the allowable window for that assessment. For example: A COT OMRA is necessary with an ARD of Day 29. The resident then discharges from the facility on Day 30. In this case, the facility may still set the ARD on the COT OMRA for this resident for Day 29, as long as this is done no more than 2 days after Day 29.

We have received some comments and requests to extend this 2 day flexibility period to three days to accommodate weekends and holidays. At this time we do not feel it prudent to extend the flexibility period beyond that which has already been established. In addition, it is important to remember that the MDS is a team-based assessment that requires input from a number of different parties and individuals. The fact that a COT OMRA ARD falls on a Friday or holiday is not sufficient reason for the ARD not to be set on this assessment. Details on the requirements for setting the ARD for a given assessment may be found in clarification 1 in the August 23rd SNF clarification memo, available on the SNF PPS website.

4. Clarification regarding the penalty for early COT assessments.

Answer: As stated in previous CMS correspondence, situations involving an early unscheduled PPS assessment are treated similarly to those involving a late unscheduled PPS assessment. Specifically, if the ARD for a COT OMRA is set for prior to Day 7 of the COT observation period, the facility must bill the default rate for the total number of days that the assessment is out of compliance (i.e., the number of days by which the assessment is early).

The default rate is effective from Day 1 of the COT observation period based on the early COT ARD, and is billed for the number of days that the assessment is out of compliance. The facility may then bill the RUG from the early COT OMRA for the remainder of that COT observation period and then continue until the next scheduled or unscheduled assessment used for payment. The early COT would reset the COT calendar such that the next COT OMRA, if deemed necessary, would have an ARD set for 7 days from the early COT ARD. When the next COT check is done, the check would be against the resident's current RUG-IV therapy level, which is that set by the early COT OMRA.

Consider the following examples that illustrate this concept: Example 1. The ARD for a 30-day assessment is Day 30. Day 7 of the COT observation period is Day 37; however, the COT ARD is set for Day 35, which is two days out of compliance. In this case, the facility should bill the default rate for Days 29 and 30, since these days constitute Day 1 and Day 2 of the COT observation period established by the early COT ARD. The facility would then bill the RUG from the early COT OMRA beginning on Day 31, and continue until the next scheduled or unscheduled assessment used for payment. The early COT resets the COT calendar, so the next COT check in this scenario would be Day 42.

Example 2. The ARD for the 60-day assessment is Day 60. Day 7 of the COT observation period is Day 67; however, the COT ARD is set for Day 61, which is six days out of compliance. In this case, the facility should bill the default rate for Day 55 through Day 60, since these days constitute Days 1 through 6 of the COT observation period established by the early COT ARD. The facility would then bill the RUG from the early COT OMRA beginning on Day 61 until the next scheduled or unscheduled assessment used for payment. The early COT resets the COT calendar, so the next COT check would be Day 68.

Example 3. The ARD for the 14-day assessment is Day 14. Day 7 of the COT observation period is Day 21; however the COT ARD is set for Day 18 which is 3 days out of compliance. In this case, the facility should bill the default rate for Days 12, 13, and 14, since these days constitute Days 1, 2, and 3 of the COT observation period established by the early COT ARD. The facility would then bill the RUG from the early COT beginning on Day 15 until the next scheduled or unscheduled assessment used for payment. The early COT resets the COT calendar, so the next COT check would be Day 25.

As stated above, the important thing in this situation is to ensure that the appropriate number of days are billed at the default rate based on this assessment. Ultimately, in the case where an assessment is early by 2 days, and this error is discovered after a claim has been submitted on this assessment, facilities need only modify the existing claim to reduce the number of days paid by this early assessment by 2 and add 2 days of default billing. Since default billing does not require an associated ARD, it is not necessary to include the ARD of the assessment that caused the default billing. This same concept should also be applied in cases of late unscheduled PPS assessments, as described below.

5. Clarification regarding the penalty for late unscheduled assessments.

Answer: If the SNF fails to set the ARD for an unscheduled PPS assessment within the defined ARD window for that assessment, and the resident being assessed is still on Part A, the ARD cannot be set for any earlier than the day the omission was identified.

In this case, billing occurs as follows: Count the number of day that the assessment is out of compliance, including the late ARD. This is the total number of days that will be billed at default beginning with the day that the assessment would have controlled payment. When the late unscheduled assessment is a COT OMRA, the late assessment resets the COT calendar.

For example, a resident last received therapy on Day 33. The ARD for the EOT OMRA is set for Day 39, which is 3 days out of compliance. In this case, the facility would bill the default rate from Days 34 through 36. The facility would then bill the RUG from the late EOT from Day 37 until the next scheduled or unscheduled assessment used for payment.

A second example is as follows: The ARD for the 30-day assessment is Day 30. Day 7 of the COT observation period is Day 37. The facility did a COT OMRA with an ARD of Day 40, which is three days out of compliance. In this case, the facility would bill the default rate for Days 31 through 33. The facility would then bill the RUG from the late COT until the next scheduled or unscheduled assessment used for payment. The COT calendar is reset from the late COT, so the next COT check is Day 47.

However, the SNF must only bill the default rate until the point when an intervening assessment would control the payment. In cases where an intervening assessment occurs, the intervening assessment is used to establish the COT ARD calendar regardless of when the late assessment is completed, and the late assessment, in these cases, would not affect the COT ARD calendar. Consider the following example: A 30-day assessment is completed with an ARD of Day 30. Day 7 of the COT observation period is Day 37. The COT ARD is set for Day 52, which is 15 days out of compliance. An EOT OMRA is performed timely for this resident with an ARD set for Day 42 and the resident's last day of therapy was Day 39.

Even though the late COT OMRA is fifteen days out of compliance, because there was an intervening assessment (in this case, the EOT), the facility would only bill the default rate for nine days (Day 31 through Day 39). The facility would then bill the RUG from the EOT OMRA from Day 40 until the next scheduled or unscheduled assessment used for payment.

Consider an additional example: Assume that a 30-day assessment is completed with an ARD set for Day 30. A COT OMRA is completed with an ARD of Day 44. The facility then realizes that a COT OMRA was due on Day 37. The resident is still on Part A, so the facility chooses to complete a late COT OMRA with an ARD set for Day 49. In terms of the billing impact, the late COT OMRA would set the basis for a default payment, which would be billed for Day 31 through Day 37. Beginning on Day 38, the facility would bill from the intervening COT OMRA that had an ARD of Day 44. While the late COT OMRA had an ARD of Day 49, the COT calendar in this case, because of the intervening assessment, is controlled by the ARD of the intervening assessment. Therefore, the next COT check in this case would be on Day 51.

6. Clarification regarding missed unscheduled PPS assessments.

Answer: If the SNF fails to set the ARD for an unscheduled PPS assessment within the defined ARD window for that assessment, and the resident has been discharged from Part A, the assessment is considered missed and cannot be completed. All days that would have been paid by the missed assessment (had it been completed timely) are considered provider-liable. However, as with the late unscheduled assessment policy discussed above, the provider-liable period lasts only until the point when an intervening assessment controls the payment.

For example: A 30-day assessment ARD is Day 30. Day 7 of the COT observation period is Day 37. The COT OMRA is missed (meaning, the missed COT was discovered after the resident had been discharged from Part A). The resident is discharged from Part A on Day 40. In this case, Days 31 through 40 are considered provider-liable.

To illustrate an example of how an intervening assessment would affect a missed unscheduled assessment, consider the following: The ARD of a 30-day assessment is Day 30. Day 7 of the COT observation period is Day 37. The COT OMRA is missed. However, an EOT OMRA is completed timely with ARD set for Day 42. The resident last received therapy on Day 39. The resident is discharged from Part A on Day 45. In this case, Days 31 through 39 are considered provider-liable. The facility would then bill the RUG from the EOT OMRA (which is the intervening assessment) for Day 40 and continue through Day 45, which is the day of discharge from Part A.

It should be noted that, in the case of a missed assessment, it may be possible to bill Medicare Part A for at least some of those days which would have been paid by the missing assessment had it been completed. In certain cases, which are outlined in Chapter 6, Section 6.8 of the MDS RAI manual, a facility may use an OBRA assessment as a substitute for the missing assessment. Facilities should be aware of these exceptions listed in Chapter 6 of the MDS RAI manual.

7. Clarification regarding how early, late, and missed unscheduled assessments may create a "compounding effect" with other assessment requirements.

Answer: It is possible that early, late, and missed unscheduled assessments will affect other assessment requirements. In each case, SNFs must consider the degree to which these untimely assessments affect other assessment requirements.

For example: A COT OMRA is completed with an ARD set for Day 35, while Day 7 of the COT observation period is actually Day 37. The SNF then completes a subsequent COT OMRA with an ARD set for Day 44 (7 days from original COT ARD). Because an early or late COT OMRA

resets the COT ARD calendar, the subsequent COT ARD should have been set for Day 42. The subsequent COT OMRA with an ARD of Day 44 would be considered late and the relevant penalty would apply.

8. Clarification regarding inactivating assessments.

Answer: As previously discussed in the RAI Manual, Section 5.5, once completed, edited, and accepted into the QIES ASAP system, providers may not change a previously completed MDS assessment as the resident's status changes during the course of the resident's stay and the MDS must be accurate as of the date of the ARD established by the time of the assessment. Errors identified in QIES ASAP system records must be corrected within 14 days after identifying the errors. Inaccuracies can occur for a variety of reasons, such as transcription errors, data entry errors, software product errors, item coding errors, or other errors. Most items on the MDS may be corrected with the modification process, which is outlined in the RAI Manual, Chapter 5, page 5-10.

There is, however, a small subset of items on the MDS that may not be modified. These items are as follows:

- Type of Provider (A0200);
- Type of Assessment (A0310);
- Entry Date (A1600) on an entry tracking record;
- Discharge Date (A2000) on a discharge record;
- Assessment Reference Date (A2300);

In the event that a provider determines that any of these items are inaccurate on a given assessment, the provider must inactivate the record in the QIES ASAP system, then complete and submit a new MDS 3.0 record with the correct event date or type of assessment, ensuring that the clinical information is accurate.

In other words, if the ARD or Type of Assessment is entered incorrectly, and the provider does not correct it within the encoding period, the provider must complete and submit a new MDS 3.0 record.

In this instance, a new ARD date must be established based on MDS requirements, which is on or after the date the error is identified, but not earlier. The new MDS 3.0 record being submitted to replace the inactivated record must include new signatures and dates for all items, based on the look-back period established by the new ARD and according to established MDS assessment completion requirements.

For example: A SNF is coding a 30-day assessment. Item A2300 (Assessment Reference Date) is coded as 02-04-2012, but it was supposed to be coded as 01-04-2012. This error is discovered on February 20th. The improperly coded assessment must be inactivated and a new MDS 3.0 record must be created and submitted to the QIES ASAP. The ARD on this assessment can be no earlier than February 20th and all items and signatures must be reflective of this new ARD.

CMS recognizes the time constraints that may be placed on SNF personnel due to the MDS process and regulations. However, it should be noted once again that the inactivation process only affects a small subset of items on the MDS, specifically a maximum of ten items on a given assessment. These items represent approximately 2 percent of the Federally-required items on a scheduled PPS assessment and 4 percent of an OMRA assessment. In general, the remaining 96 percent of the assessment consists of those items that may be modified according to the modification process outlined in Chapter 5 of the MDS RAI manual. Additionally, current MDS requirements permit 14 days from the ARD to complete the assessment; a 7-day "encoding period" after the assessment is completed to code the responses into the computer, and then 7 days from that point to submit the assessment. In total, this allows facilities a 28-day period to submit an assessment from the ARD of that assessment.

The facility should use this time to ensure accurate coding of the assessment, particularly those items that help determine the appropriate observation period for the resident and the types of information that are assessed. If an error is discovered during the completion or encoding period, then the error can be corrected without penalty. It is only when an error is not discovered until after an assessment is submitted, which represents an attestation that the information coded on the assessment is accurate at the time of submission.

Providers should also have triple-check and other QA processes in place to ensure assessments are accurate prior to submission. Such monitoring and documentation is a part of the provider's responsibility to provide necessary care and services.

9. Clarification regarding completing the interview items on unscheduled PPS assessments.

Answer: Effective April 1, 2012, when coding a standalone unscheduled PPS assessment (COT, EOT, SOT), the interview items may be coded using the responses provided by the resident on a previous assessment, <u>if the interview responses from the previous assessment were obtained no more than 14 days prior to the date those responses will be used on a subsequent standalone unscheduled PPS assessment</u>. This does not change other assessment policies with regard to the frequency of resident interviews.

This policy is only applicable under the following conditions: This applies only to standalone unscheduled PPS assessments. This does not apply in cases where the unscheduled PPS

assessment is combined with a non-PPS assessment or scheduled PPS assessment. Additionally, at the discretion of the provider, if a change is observed during the observation period for the unscheduled PPS assessment, then responses may not be carried forward. Interviews may only be carried forward if the staff member who signs item Z0400 attesting to conducting the previous interview is the same staff member signing item Z0400 attesting to conducting the current interview. Finally, this applies in cases where the resident interview was completed on a prior assessment, not the staff assessment.

For example, assume a facility completes a 14-day assessment and completes the resident interview items on the assessment on the same day as the ARD. The facility then finds that an EOT OMRA is completed with an ARD set for just a few days after that of the 14-day assessment. The facility reviews the interview items and finds that the responses are still an accurate representation of the resident's current state. In this case, the facility may choose simply to carry the interview responses forward from the 14-day assessment to the standalone EOT OMRA. In the Z0400 field on the EOT OMRA, the facility would have the individual who conducted the original interview sign-off on this section and input the date of the original interview.
The relevant aspects of this scenario are the date the original interview was completed and the date that the subsequent interview would have been scheduled for if the interview was to be completed. These are the two dates that must be compared and that are used to determine if the responses from the prior assessment may be used. The ARD for each assessment is not relevant for determining if the responses meet the 14-day requirement.

Again, in terms of the 14-day window for carrying forward interview responses, the two dates to be compared are the dates the responses were obtained, as indicated by the Z0400 date connected to that interview section and the date which would have been indicated on the subsequent assessment if the interviews would have been conducted. In the Z0400 field on the subsequent assessment, the facility would have the individual who conducted the original interview sign-off on the relevant interview section(s) and input the date that the original interview was conducted.

The question facility staff needs to answer "yes" is this: Is the date of the interview documented in Z0400 on the previous assessment within 14 days of a day that is an allowable day for the interview on the current, unscheduled, stand-alone assessment? If this answer is yes and all of the other conditions are met (no SCSA, same staff available to sign for the interview, etc.), then the date of the interview from the previous assessment may be input into Z0400 on the current assessment and the responses from that previous interview may be carried forward to the current assessment.

10. Clarification regarding the completion requirements for an EOT OMRA

Answer: As stated in the MDS RAI manual, an EOT OMRA is only necessary in cases where a resident classified into a RUG-IV rehabilitation group does not receive therapy for three or more consecutive calendar days. We had previously clarified that if the resident were to be discharged from the facility on or prior to the third day of missed therapy, then an EOT OMRA was not required.

However, as with any of these clarifications, this clarification is not intended to change or replace the standing level of care requirements that apply to all SNF residents, such as the requirement that the resident have a need for a skilled service. These level of care requirements still apply, regardless of whether a given assessment is necessary. This is particularly relevant in relation to the EOT OMRA, given that some residents are only skilled for therapy services. For all residents, independent of the assessments that may or may not be necessary, facilities must always ensure that the resident meets all of the necessary requirements to qualify for the SNF benefit throughout the course of the resident's stay.

Ultimately, an EOT OMRA is always required when:

- Resident is in a therapy RUG; and
- All therapy is being discontinued; and
- The resident will continue on Part A for skilled nursing for more than 3 days. If skilled nursing continues for only 1 – 3 days and the resident is discharged on the third day, then no EOT OMRA is required and the facility can to bill the therapy RUG for that 1 -2 days, since the third day would be the day of discharge and therefore not a billable day to Part A. If a daily skilled service is not provided after therapy ends, then Part A can no longer be billed.