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Centers for Medicare & Medicaid Services
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Center for Medicaid, CHIP, and Survey & Certification/Survey & Certification Group

Ref: S&C: 11-41-NHs

DATE: September 30, 2011

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Affordable Care Act Section 6103: Guidance for State Consumer Oriented Websites

Memorandum Summary

- **Key Elements:** The Centers for Medicare & Medicaid Services (CMS) provides a list of key elements for State website development for States to qualify for Federal funding.
- **Financing:** The costs for development of the websites and operation are allowable expenses for reimbursement through a combination of Medicaid, Medicare survey and certification, and State-only funds under standard cost- allocation procedures.

This letter provides guidance to States on implementing section 6103 of the Affordable Care Act. Section 6103(d)(2)(D) of the law amends section 1902(a)(9) of the Social Security Act to require:

...that the State maintain a consumer-oriented website providing useful information to consumers regarding all skilled nursing facilities and all nursing facilities in the State, including for each facility, Form 2567 State inspection reports (or a successor form), complaint investigation reports, the facility's plan of correction, and such other information that the State or the Secretary considers useful in assisting the public to assess the quality of long term care options and the quality of care provided by individual facilities.

A. Key Elements of a State Website

Federal funds are available to meet the requirements of this legislation in accordance with normal cost-allocation principles (described in section B). The statute sets out basic requirements for the website, which are noted above. CMS funding is available to support States in their efforts to develop the websites. Websites developed by a State under their state plan to

satisfy the new requirement of section 1902(a)(9)(D) of the Act should include these characteristics:

- (1) ***Inclusive***: Include all skilled nursing facilities (SNFs) and nursing facilities (NFs) in the State.
- (2) ***Accessible***: Be easily accessible from the main page of the website of both the State Medicaid agency and the State Survey Agency.
- (3) ***Consumer Friendly***: Be written and conveyed in a manner that is welcoming and readily understandable to consumers and the public.
- (4) ***Searchable***: Provide search capabilities that allow a consumer to identify any SNF and NF in the State by name and geographic location.
- (5) ***Comprehensive***: The CMS Form 2567 survey results for each recertification survey and each complaint survey performed in the last three years should be available in viewable and downloadable form for each SNF and NF, in a manner consistent with industry standards (such as those developed by the National Institute of Standards and Technology), including portable document file (.pdf) or hyper text markup language (HTML) format.
- (6) ***Include Plans of Correction***: For each recertification and complaint survey completed, provide the nursing facility or skilled nursing facility's plan of correction when available.
- (7) ***Link to Federal Websites***: Link to CMS's *Nursing Home Compare* website. See also paragraph (c) of the enclosure for a discussion of Federal plans for making CMS Form 2567 data available.
- (8) ***Link to State Websites***: Link to the State Long Term Care Ombudsman Program and, if applicable, a State Aging and Disability Resource Center (ARDC).
- (9) ***Include Information about Alternative Services***: Provide links and information about alternative long term care services available in the State, including services provided under Home- and Community-based Service programs.
- (10) ***Privacy Safeguards***: Must not contain any identifying information about the resident or complainant(s) in the text of the CMS 2567.

States should provide CMS with the universal resource locator (URL) for the relevant state websites so that CMS may include a link to the state's web site on the Nursing Home Compare website.

B. Financing

The costs for development and operation of the State websites to meet section 1902(a)(9)(D) of the Act are allowable expenses for reimbursement through a combination of Medicaid, Medicare survey and certification, and State-only funds under standard cost-allocation procedures.

In those States in which a State law or regulation requires public posting of CMS Form 2567 survey results for nursing homes, the cost-allocation proportions in effect for surveys of facilities dually certified in Medicare and Medicaid in the State should be used (i.e., costs shared between Medicare, Medicaid, and State-only).

For other States (that do not have a State law or regulation requiring the posting of CMS Form 2567 for nursing homes), costs should be apportioned between Medicare and Medicaid using each program's share of survey costs for dually-certified facilities, but adjusted to account for the absence of a State-only share.

Upon CMS approval, the Medicare portion of costs for a website that meets the criteria in this bulletin may be expensed through the survey and certification operational budget for each State. The Medicaid share of costs for a website that meets the criteria in this bulletin qualifies as an administrative expense. The Medicaid share may also be eligible for enhanced Federal Financial Participation (FFP) if it meets certain conditions. Any State interested in exploring the possibility of enhanced Medicaid FFP should consult with the appropriate Medicaid representative in the CMS regional office.

Effective Date: Immediately. This policy should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

Contact: If you have any questions regarding the requirements for posting 2567s as described in this bulletin, please contact the appropriate survey & certification contact for your State in the **CMS regional office**. The RO contacts will be supported by Ed Mortimore in the CMS central office (Edward.Mortimore@cms.hhs.gov).

For questions related to Medicaid financing, please consult with the appropriate Medicaid representative in your CMS regional office.

/s/

Thomas E. Hamilton

Attachment

cc: Survey and Certification Regional Office Management

Attachment

Options for States and Potential Availability of CMS Form 2567 Data Files

This attachment describes three general options for States to pursue in obtaining CMS 2567 data to fulfill their responsibilities under section 6103 of the Affordable Care Act (ACA). Option 1 describes a general method that States may use to post data to which the States have direct access. Options two and three describe methods to use data that CMS is planning to make available in 2012.

1. State Server Option

Under this option States would use Form 2567 data maintained on their State Servers. This option would allow States to link plans of correction to the Form 2567 data, if the Plans of Correction data are available on the server. If Plan of Correction data are not available electronically, States have the option of designing an electronic system to capture Plans of Correction or scanning Plans of Correction and posting the scanned files on the website. This option would provide the most up-to-date array of survey findings, as recorded in the Form 2567s, and the optimum method of linking Form 2567s and the corresponding Plans of Correction.

2. Download Option

States may be able to download CMS Form 2567 data from data.medicare.gov. Our hope is that by Spring 2012, we may be able to make available the source data files for CMS Form 2567 on data.medicare.gov for download to interested parties. These data sets would contain the entire text of the 2567 form for standard and complaint surveys that have been uploaded to the CASPER database, and would be available in an electronic format suitable for loading into databases. The data sets will not, however, contain Plans of Correction.

Detailed specification on the structures of the CMS Form 2567 datasets will be forthcoming. These data will be suitable for use in a database that provides information to consumers, but will need to be formatted for printing. They would be suitable for use in State consumer websites. The information would be updated monthly. Plans of Correction data, however, will continue to exist only in State databases. Please also note that this option will involve some delay in the appearance of the Form 2567s, since there is a time lag inherent in the uploading of the Form 2567s from State servers to the national CASPER database, from which the downloadable data are derived.

3. Link Option

In this method, States would provide a link to *Nursing Home Compare*, which would display the actual contents of the 2567. CMS is working to make detailed survey information contained on the 2567 available as .pdf files on the *Nursing Home Compare* website by the summer of 2012. CMS does not know at this time if States will be able to link directly to individual nursing homes or surveys on the website. CMS will make this information available as soon as it is able. Another limitation of this option is that *Nursing Home Compare* will not display the Plans of Correction.