

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C- 04-13

DATE: December 11, 2003

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Validation, Complaint, and Reporting Requirements: Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services to Individuals Under Age 21 (42 CFR Part 483 Subpart G).

Letter Summary

This memo:

- 1) Outlines in general the responsibilities of all parties under the interim final rule governing the use of restraint and seclusion in Psychiatric Residential Treatment Facilities (PRTFs) providing inpatient psychiatric services for individuals under age 21;
- 2) Shares documents that will aid in the oversight and survey process of this newly established provider type, i.e., contact lists for Centers for Medicare & Medicaid Services (CMS) - Regional Office (RO), a Protection and Advocacy agency (P&A) contact list for each state, and a model attestation letter previously distributed in a State Medicaid Director's Letter; and
- 3) Provides an interim final appendix to the State Operations Manual (SOM) for the survey process and interpretive guidelines for PRTFs. We expect the final appendix to be available in the summer of 2004.

I. Background

An interim final rule establishing standards for the use of restraint and seclusion in PRTFs providing inpatient psychiatric services for individuals under age 21 (the Psych Under 21 rule) was published on January 22, 2001. This rule established a definition of a PRTF that is not a hospital and that may furnish covered inpatient psychiatric services for individuals under age 21. The rule also established a Condition of Participation (CoP) for the use of restraint and seclusion that PRTFs must meet in order to provide, or to continue to provide this Medicaid inpatient benefit. The CoP specifies requirements designed to protect the residents against the improper use of restraint and seclusion. Both rules, the interim final and its amendment can be accessed on www.access.gpo.gov under the published dates of January 22, 2001, and May 22, 2001. The questions and answers on the interim final rule can be found on CMS' website at www.cms.hhs.gov/Medicaid/services/psyrft2.asp. The rule is codified and is located at 42 CFR Part 483 Subpart G §§ 483.350-483.376.

II. Responsibilities

This interim rule established validation, complaint and reporting requirements as well as annual attestation requirements. These responsibilities are described in brief in this document, however a more detailed discussion and outline of responsibilities is included in the interim final appendix to the SOM in attachment D.

State Survey Agency (SA)

- Conduct 20 percent yearly validation surveys (including complaint surveys due to the improper use of restraint and seclusion). The 20 percent will be pro-rated in FY 2004 according to the SOM publication date.

State Medicaid Agency (SMA)

- Share reported information with its State licensing agency (usually the SA) responsible for licensing health institutions within the State. (42 CFR 431.610 (e)(2)). All discussion related to SMAs was included and disseminated in SMDL #01-023, dated July 11, 2001.

PRTFs

- Report serious occurrences, which include deaths, serious injuries, and attempted suicides that may be due to the use of restraint or seclusion to the SMA and the State-designated P&A agency (see attachment B). Report to CMS RO any resident's death (see attachment A).
- Document in the resident's record that the death was reported to the CMS contact and document that any serious occurrence, including death, serious injury, or attempted suicides were reported to the SMA and the State-designated P&A agency.

CMS

- CMS-RO: Receive and maintain death report data for PRTFs and send death report data to Central Office's Survey and Certification Group/Division of Continuing Care Providers.
- CMS-Central Office: maintain a central log of death report data as reported by the ROs.
- Develop and disseminate a survey protocol for validation and complaint investigation surveys, and conduct trainings for State and Federal surveyors.

III. Next Steps

We expect facilities to have implemented the interim final rule, including the attestation requirements as of July 21, 2001. CMS conducted satellite training on November 14, 2003 based on interim final requirements. The training can be accessed via our website at <http://cms.internetstreaming.com>. Additional training will be provided after publication of the final rule.

If you have any questions about this memorandum or guidance please contact Carla McGregor at 410-786-0663.

Effective Date: Immediately. We have attached a interim final appendix of the SOM for the survey process and interim guidelines for PRTFs because the rule is not yet final. The document will still require a formal CMS clearance process and will be issued in final form in the summer of 2004, at the time of the final rule publication. Any changes to the final rule will be reflected in the SOM and surveyor guidance.

Action Steps:

- 1) Survey agencies are expected to begin gathering information on PRTFs in their states.
- 2) Survey agencies are to begin surveys in March 2004 or shortly thereafter upon the completion of data input system.

Termination: Facilities who fail to report a death or who are found out of compliance with the conditions of participation will be terminated from the Medicaid program.

Training: This information should be shared with all survey and certification staff, surveyors and their managers, the State and regional office training coordinators, and the designated mental health regional office contact person.

Thank you in advance for your partnership in accomplishing these endeavors.

/s/
Thomas E. Hamilton

Attachment A: CMS Regional & Central Office Contacts

Attachment B: Protection & Advocacy State Office Contacts

Attachment C: Model Attestation Letter

Attachment D: Interim Final State Operations Manual: PRTF survey process and interpretive guidelines

cc:

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