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December 14, 2011

John Sauer, Executive, Director  
Wisconsin Association of Homes and Services for the Aging  
204 South Hamilton Street  
Madison, WI 53703

Dear Mr. Sauer:

Thank you for your e-mail correspondence to regarding our response to an inquiry concerning the requirement for all regulated healthcare facilities to maintain the results thirty (30) most recent internal investigations that were not forwarded to the Division of Quality Assurance (DQA). In a previous letter to me by a third party, I was asked to notify DQA surveyors DQA that the expectation that nursing homes retain the thirty most recent incidents is no longer applicable to nursing home providers. This letter is a repeat of the response previously sent regarding this subject matter.

As you know, per CMS direction, all nursing homes must immediately report all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property to the facility administrator and to DQA. Facilities must have evidence that all alleged violations are thoroughly investigated, and the results reported to the administrator and to the DQA Office of Caregiver Quality (OCQ) within 5 working days of the incident.

There are, however, limited circumstances when it is unclear whether an allegation meets the definition of a reportable incident and nursing homes may first conduct an initial evaluation of an allegation. Generally the initial evaluation is restricted to misappropriation of a resident's property, injuries of unknown source and some resident-to-resident altercations. The guidance that will be issued to providers shortly will further explain this initial evaluation opportunity and provide flowcharts to assist in the decision making to report injuries of unknown source and resident-to-resident altercation. Based on this guidance, nursing homes may have unreported incidents on file and DQA surveyors will continue to review any unreported incident reports that the facility has on file.

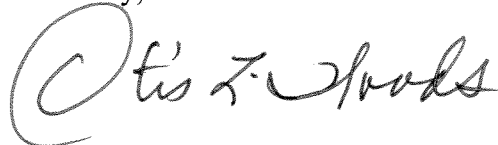
Both state administrative rule and federal requirements require nursing homes to maintain information on incidents and accidents. Additionally, CMS directs the state survey agency to review evidence of how a facility handles alleged violations. Please refer to the following:

- DHS 132.45(5) (c) (4) b. All incidents or accidents including time, place, details of incident or accident, action taken, and follow-up care.
- DHS 132.45(4) (f) *Retention and destruction*. 1. An original medical record and legible copy or copies of court orders or other documents, if any, authorizing another person to speak or act on behalf of this resident shall be retained for a period of at least 5 years following a resident's discharge or death when there is no requirement in state law. All other records required by this chapter shall be retained for a period of at least 2 years.
- F514 §483.75(l) Clinical Records - The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices that are--Complete; Accurately documented; Readily accessible; and Systematically organized.
- State Operations Manual - Appendix PP - Guidance to Surveyors for Long Term Care Facilities Task 5G Procedures (in part): Request written evidence of how the facility has handled alleged violations. Select 2-3 alleged violations (if the facility has this many) since the previous standard survey or the previous time this review has been done by the State.

We will inform our survey staff that it is no longer a part of the survey procedure to ask nursing homes for their thirty most recent investigations. However, we do not think it necessary to include this information in the forthcoming DQA memo since the current DQA memo to nursing homes regarding reporting requirements does not refer to retaining thirty investigations. Nor did we amend Section 6.1.2 of the Caregiver Manual since Chapter 6, Misconduct Reporting and Investigations, states the section applies to all entities regulated by DQA except nursing homes.

Thank you again for contacting me with your request. Please feel free to call me if you have questions regarding this information or if you would like to discuss this further.

Sincerely,



Otis L. Woods  
Administrator

Cc: Shari Busse, DQA/Deputy Administrator  
Sandy Rowe, DHS/OLC  
Juan Flores, DQA/BNHRC