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Are Your Care Plans And Discharge Plans Putting Your SNF At Risk For Enforcement?

On February 28, 2013, the Office of Inspector General ("OIG") released a new report on skilled nursing facilities ("SNFs"). The report, which is part of the OIG's broader efforts to investigate SNF payments and quality of care, focuses on deficiencies in plans of care, discharge plans, and quality of care measures. The OIG's findings and recommendations signal that more enforcement by State surveyors is on the horizon. In this article, we will summarize the OIG's key findings, provide tips on how to avoid non-compliance in those areas, and predict how this report will affect the SNF regulatory landscape in the future.

Care Plan Findings

Medicare regulations require SNFs develop a care plan for each beneficiary and provide services in accordance with that plan. Care plans must include measurable objectives and timetables and be customized to the beneficiary. In its report, OIG found that, for 37 percent of stays, SNFs did not develop care plans that met requirements or did not provide services in accordance with care plans. In particular, for 19 percent of stays, SNFs developed care plans that did not address one or more problem areas identified in the beneficiaries' assessments. In addition, for 7 percent of stays, the SNFs' care plans did not include measurable objectives or detailed time frames. To avoid non-compliance in this area, Nelson Hardiman recommends the following:

- Review care plans to ensure that it is customized to the beneficiaries' specific needs;
- Avoid computer generated care plans that have generic interventions or approaches;
- To the extent practicable, the beneficiary, the beneficiary's family, or the beneficiary's legal representative should participate in the initial care planning;
- Review documentation to ensure care plans are implemented correctly;
- Make sure the patient's chart has documentation that shows all aspects of the care plan were provided to the patient;
- Ensure the services provided match the amount of services and frequency thereof in the care plan, especially with respect to therapy visits, which is a heavily scrutinized service;
- If a care plan is not strictly adhered to, document why the SNF did not provide services in accordance with the care plan.

Discharge Plan Findings

Medicare regulations provide that, when the SNF anticipates the discharge of a beneficiary to another care setting or home, it must plan for the discharge. As part of this planning, the SNF must develop a discharge summary to help ensure that the beneficiary's care is coordinated and that the beneficiary transitions safely to his or her new setting. The discharge summary should include a summary of the beneficiary's stay, a summary of the beneficiary's status at the time of discharge, and a post-discharge plan of care.

In its report, the OIG found that, for 31 percent of stays, SNFs did not meet discharge planning requirements. In particular, for 16 percent of stays, SNFs did not have summaries of the beneficiaries' stays or statuses at discharge. In addition, for 23 percent of stays, SNFs did not have post-discharge plans of care. To avoid these examples of non-compliance, Nelson Hardiman recommends the following:

- Make sure the discharge summary is comprehensive and includes clinical information;
- When preparing a discharge summary, avoid using just a single statement, such as "patient has done well";

- Always furnish the patient with a written post-discharge plan of care, including written instructions on medication;
- Upon discharge, avoid giving patients oral instructions;
- To the greatest extent practical, involve the interdisciplinary team, including a physician, in developing a patient's discharge plan.

What Can We Expect Going Forward?

As noted above, the OIG's latest report is part of its broader to investigate SNF payments and quality of care. Based on OIG's findings and recommendations, Nelson Hardiman expects to see the following changes to the skilled nursing facility regulatory landscape in the coming years:

- Stronger regulations on care planning adherence and discharge planning;
- More education from CMS contractors regarding care planning and discharge planning;
- Pay-for-performance incentive programs that link payments to meeting quality-of-care requirements;
- Increased enforcement by state surveyors to identify SNFs that do not meet care planning and discharge planning requirements, as well as the greater use of penalties for non-compliance, such as State monitoring, a directed plan of correction, or civil monetary penalties; and
- More follow up on the SNFs that failed to meet care planning and discharge planning requirements.

SNF care represents the third largest expenditure under the Medicare budget. Therefore, the OIG is likely to continue its effort to identify problems in SNF billing and enforce regulations in an attempt to make SNF care as cost efficient as possible.