



LTCPA

Long Term Care
Pharmacy Alliance

LTCPA Response to CMS Survey and Certification Memo

On May 11th, the CMS Survey and Certification Group Director issued a memo to State Survey Agency Directors. The stated purpose of the memo is to give surveyors (people responsible for inspecting nursing homes for compliance with state and federal standards) information relevant to the Medicare Part D benefit.

<http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCLetter06-16.pdf>

The memo is confusing and often contradictory. On the one hand, it confirms that the nursing facility has responsibility for provision of prescription drugs to the resident. It also reminds surveyors that nursing homes are responsible for helping residents make healthcare and financial decisions. On the other hand, it suggests that if nursing home personnel make an effort to advise residents which Medicare plans are most appropriate for their medication needs they risk being cited by surveyors for “steering”.

Both the HHS Inspector General¹ and the Government Accountability Office² recognize that there are significant differences in formularies among Part D plans. In fact, this is exactly what was envisioned by the framers of this benefit.

What the survey memo does not acknowledge is that two-thirds of nursing home residents had no part in choosing the plan in which they are currently enrolled. As dual eligibles, their assignment to a plan was the result of a random process of assignment. However, if a nursing home professional attempts to advise the beneficiary of the availability of plans whose formularies are more conducive to the drug regimens of nursing home residents, CMS proposes to cite the caregiver.

The LTCPA calls upon CMS to withdraw this inaccurate document and make every effort to ensure that nursing home professionals are not hindered in their efforts to give appropriate, objective advice to residents on the choice of a Medicare drug plan.

¹ *Dual Eligibles' Transition: Part D Formularies' Inclusion of Commonly Used Drugs*. HHS Inspector General. January, 2006

² *Medicare: Contingency Plans to Address Potential Problems with the Transition of Dual-Eligible Beneficiaries from Medicaid to Medicare Drug Coverage*. Memo to the Honorable Max Baucus, Ranking Member of Senate Committee on Finance. December, 2005