



## **Center for Medicaid and State Operations**

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Dear State Medicaid Director:

This letter is to provide information and enlist your support and assistance regarding implementation of the Nursing Facility (NF) Minimum Data Set (MDS) Version 3.0 (functional assessment instrument utilized for all certified skilled nursing facilities (SNF) and nursing facilities (NF) residents). Implementation of MDS 3.0 may have a substantial impact on State Medicaid programs in two important respects:

1. MDS 3.0 may reflect changes in items that States rely on to determine Medicaid case-mix payments for SNFs/NFs; and
2. One revised section, Item Q-Discharge Potential will support States' SNFs/NFs transition efforts and improve consumer choice and access to community-based services.

The implementation of the NF MDS 3.0 is scheduled for October 1, 2009. See Attachment A for the draft MDS 3.0 implementation training and outreach calendar. All information about the MDS 3.0 assessment instrument and implementation can be found at [http://www.cms.hhs.gov/NursingHomeQualityInits/25\\_NHQIMDS30.asp](http://www.cms.hhs.gov/NursingHomeQualityInits/25_NHQIMDS30.asp)

Given the broad use of the NF MDS in many State systems, we want to ensure all relevant State staff are included in CMS information dissemination regarding NF MDS 3.0 and are provided the opportunity to seek any necessary technical assistance. As a result, at the conclusion of this letter, we request contact information for key State staff.

### **Background - MDS Version 3.0**

Changes in the new MDS 3.0 assessment instrument were based on extensive written and oral provider feedback, a CMS/Veterans Administration Research Collaborative, technical expert review, and data collection in eight States. The rationale for revising the MDS came from several sources. Providers are concerned that the MDS is not clinically up to date, valid and relevant; staff of SNFs/NFs argue NF MDS presents a time burden without clear benefit; and some MDS items are described as difficult or unclear. Residents and their families raise concerns that the residents are not directly answering any MDS questions. The NF MDS assessments are instead completed by providers. This does not represent a person-centered approach. Moreover, important problems including pain and depression may be under-detected. Policy makers and researchers want improvements in assessment, care planning, identification of individuals who may want to learn about transitioning back to the community, and payment items. The new version NF MDS addresses these issues.

### **Impact of Changes in MDS Version 3.0 on States Using MDS for Medicaid SNF/NF Reimbursement (Case-mix States)**

For States that use the information from the NF MDS to determine the Medicaid reimbursement to SNF/NFs, there are many critical issues that need to be addressed. Nursing Home payment is a large portion of State Medicaid expenditures, so any changes in SNF/NF payment infrastructure can have an impact on already tight budgets. The research sponsored by CMS through the Staff Time and Resource Intensity Verification (STRIVE) project has identified changes in patient care and industry practices since the introduction of the Medicare SNF prospective payment system (PPS). To ensure SNF/NF payment reflects these changes, we expect to introduce changes to the Resource Utilization Group (RUG III) model used to establish case-mix adjusted payment levels. We expect to introduce these changes effective October 1, 2009, in conjunction with the introduction of the MDS 3.0. States must determine whether they will change from the RUGs version they are currently using to the new RUGs system being developed through the STRIVE project. Since a majority of States use RUG III to pay nursing facilities, the use of RUG IV may impact State information systems as well as State budget projections for institutional services.

### **Referrals of Individuals to Receive Information about Community Options**

The new MDS 3.0 Section Q-Discharge Potential will support States' efforts to comply with the Americans with Disabilities Act (ADA) and the U.S. Supreme Court Olmstead decision by providing nursing facility residents with the opportunity to learn about the possibility of a return to community life with the receipt of available services and supports in the least restrictive and most integrated setting. In a State Medicaid Director letter of January 14, 2000, it states "the Supreme Court in Olmstead indicated that a State may be able to meet its obligation under the ADA by demonstrating that it has a comprehensive, effectively working plan for placing qualified persons with disabilities in the most integrated setting appropriate." This new MDS offers an additional mechanism to support States' plans to increase consumer choice and access to community-based services.

For the first time, under MDS 3.0 persons in SNFs/NFs will be asked directly about their needs and preferences in selected critical areas. On admission to the NF and with the annual and quarterly assessments, Section Q of the MDS 3.0 directly asks the person if they would like to speak with someone to learn about the possibility of returning to the community to live and options for community supports and services. If the individual living in the NF answers yes the NF is required to act on this request through care planning and referral. The NF shall initiate care planning and contact the designated entity in the State so that they can meet with the resident to discuss community transition possibilities and options for services and supports.

CMS is requesting assistance from State Medicaid agencies who will be implementing this new opportunity to identify residents interested in transition to community living. CMS is developing the capacity to create and maintain a comprehensive national resource of designated local referral agencies. The designated entity may be an Area Agency on Aging, a single entry point agency, an Aging and Disability Resource Center, a Center for Independent Living, or another State entity or contractor. However, in order for the designated referral entity to obtain information about residents that respond yes to Section Q, that entity must sign as a custodian on the Medicaid Data Use Agreement (details regarding acquisition of a Medicaid DUA is provided on page 3). The custodian is the entity that performs Title II, ADA activities and is authorized to obtain MDS data on specific individuals. At the conclusion of this letter, we request States designate transition contacts that will engage in future discussions with CMS staff about the use

of MDS 3.0.

### **Obtaining MDS Data for Title II ADA Requirements**

On February 18, 2005, CMS issued a Survey and Certification Memo (Ref: S&C-05-19), to State Medicaid Directors that provided information on the use of MDS data to assist States in complying with Title II, ADA activities. One such use is State Agencies' (SAs) efforts to comply with the integrated care setting and reasonable accommodation requirements. To assist in this initiative, CMS developed a DUA specific to Medicaid Agency functions found at [www.cms.hhs.gov/privprotecteddata](http://www.cms.hhs.gov/privprotecteddata) and has provided State Medicaid Agencies with NF MDS data for the residents of that State and beneficiaries of that State's Medicaid Program. The DUA must be signed by the requestor and the custodian of the data and binds the parties to the requirements of the Privacy Act, The HIPAA Rule and the applicable NF MDS System of Records published in the Federal Register (Vol.72, No.52, Monday, March19, 2007). The NF MDS data, Section Q, will enable SAs and their designated entity/custodian to identify residents who have a desire to live in the community.

**CMS is requesting that States review and update their Medicaid DUAs and send a copy to:**

**Tina Miller  
CMS  
7500 Security Blvd.,  
Mail stop S2-12-25.  
Baltimore, MD 21244**

States that have not submitted a Medicaid DUA and would like to use the NF MDS data to assist them in complying with Title II, ADA requirements may submit a Medicaid DUA to the Regional Office DUA Coordinators. **Please submit all Medicaid DUAs by April 30, 2009.**

### **Continued Coordination between CMS and State Medicaid Agencies**

CMS has in place several forums to disseminate information regarding implementation of MDS 3.0. However, we believe the needs of States require more focused discussion especially as related to States' efforts and programs that will utilize the NF MDS 3.0 for quality, transitions, and payment reimbursement activities. As a result, CMS plans to initiate and facilitate ongoing teleconferences throughout 2009 to address issues that impact the Medicaid State agencies. The agendas for these teleconferences will be based on States' needs to address these MDS 3.0 implementation cross-cutting issues.

**In order for us to communicate effectively with your State and directly with specific stakeholders, please send the following information to the CMS resource box (CMS [MDSFORMEDICAID@cms.hhs.gov](mailto:MDSFORMEDICAID@cms.hhs.gov)) no later than November 10, 2008. Upon receipt of contact information from States, we will immediately schedule an initial call to provide additional information and address any questions States may have.**

1. Name, phone number and email address of your State Medicaid agency contact person for nursing facility transitions; and
2. Name, phone number and email address of a State Medicaid agency contact person for

nursing facility reimbursement (RUG III and case mix) issues.

To further facilitate communication, CMS has taken the following actions:

1. Provided a list of contacts (below) that can address questions regarding MDS implementation; and
2. Established an email resource that States may submit questions or requests for assistance. The address is CMS [MDSFORMEDICAID@cms.hhs.gov](mailto:MDSFORMEDICAID@cms.hhs.gov).

**For further information, you can contact the following persons:**

- Nursing Home (NF) MDS Assessment Instrument content, training, and outreach: Tom Dudley – [thomas.dudley@cms.hhs.gov](mailto:thomas.dudley@cms.hhs.gov);
- SNF Prospective Payment System (PPS): Ellen Berry – [ellen.berry@cms.hhs.gov](mailto:ellen.berry@cms.hhs.gov);
- State systems for MDS transmission: Karen Edrington – [karen.edrington@cms.hhs.gov](mailto:karen.edrington@cms.hhs.gov);
- NF MDS Data Use Agreement issues: Tina Miller – [tina.miller@cms.hhs.gov](mailto:tina.miller@cms.hhs.gov);
- NF related survey and certification issues: Chrissy Stillwell-Deaner – [christine.stillwell-deaner@cms.hhs.gov](mailto:christine.stillwell-deaner@cms.hhs.gov); and
- Nursing Facility Transition programs: Mary Beth Ribar – [marybeth.ribar@cms.hhs.gov](mailto:marybeth.ribar@cms.hhs.gov).

Sincerely,

Gale Arden  
Director  
Disabled and Elderly Health Programs Group

Attachment

A. Minimum Data Set (MDS) 3.0 Timeline

cc:

CMS Regional Administrators

CMS Associate Regional Administrators,  
Division of Medicaid and Children's Health

Ann C. Kohler  
NASMD Executive Director  
American Public Human Services Association

Joy Wilson  
Director, Health Committee  
National Conference of State Legislatures

Matt Salo  
Director of Health Legislation  
National Governors Association

Debra Miller  
Director for Health Policy  
Council of State Governments

Christie Raniszewski Herrera  
Director, Health and Human Services Task Force  
American Legislative Exchange Council

Barbara W. Levine  
Chief, Government Relations and Legal Affairs  
Association of State and Territorial Health Officials

**Minimum Data Set (MDS) 3.0 Timeline**  
**Key implementation dependencies for October 1, 2009:**

- **July 11, 2008** – Post RAND Final Report, MDS 2.0/3.0 Crosswalk and Timeline (CMSO, CMM, OCSQ)
- **August 01, 2008** - Consensus on Pressure Ulcer items (CMM and OCSQ)
  - If no consensus is achieved, a decision paper will outline the possible approaches to addressing the staging of healing pressure ulcers
- **September 02, 2008** –
  - Final decision from Administrator to implement on October 1, 2009
  - Final decision from Administrator for coding pressure ulcers if consensus not reached
- **October, 2008** – Publish draft data specifications and MDS 3.0 instrument (excludes CMM's Staff Time Resource Intensity Verification (STRIVE) recommendations) (CMSO)
- **March 01, 2009** – Post final data specifications and 3.0 instrument (including STRIVE recommendations) (CMM/CMSO/OCSQ)

**General implementation timeline**

- **June 20, 2008** – Achieve agreement on MDS timeline with OCSQ, CMM, and CMSO
- **June 30, 2008** – Achieve agreement on MDS 2.0/3.0 crosswalk with OCSQ, CMM, and CMSO
- **July 01, 2008** – Submit RAND MDS 3.0 final report, timeline, MDS 2.0/3.0 crosswalk and accompanying webpage language to OCSQ FO for posting on [cms.hhs.gov/quality/MDS3.0](http://cms.hhs.gov/quality/MDS3.0) Implementation
- **July 11, 2008** – Post RAND MDS 3.0 final report, timeline, and MDS 2.0/3.0 crosswalk on [cms.hhs.gov](http://cms.hhs.gov) (OCSQ)
- **July 2008** – FY 2009 SSNF/NF Payment Update Federal Register Notice
- **August 01, 2008** – Consensus on pressure ulcers coding (CMM/OCSQ)  
\*If no consensus, prepare decision paper for items to use in coding pressure ulcers for October 1, 2008 Administrator's decision (OCSQ)
- **September 01, 2008** – Draft data specifications frozen – needed by CMSO/DNS to meet October 1 publication date.
- **September 02, 2008**
  - Final decision from Administrator to implement on October 1, 2009
  - Final decision from Administrator for coding pressure ulcers if consensus not reached
- **October 2008** – Publish draft data specifications and MDS 3.0 instrument (excludes CMM's final STRIVE recommendations) (CMSO)
- **November 2008** – Achieve agreement on STRIVE recommendations with CMM, OCSQ, CMSO

- **March 01, 2009** –
  - Publish final MDS 3.0 instrument (with STRIVE recommendations)
  - Publish final MDS 3.0 Data Specifications with STRIVE Changes
  - Publish final Resident Assessment Instrument (RAI) Manual
- **June 2009** – Satellite broadcast (1 of 3)
- **April 2009** – State Medicaid National Meeting Presentation
- **May 2009** – RAI and Technical Conferences: State Survey, Medicaid & Automation Staffs – Train the Trainer Materials
- **May 2009** – NF Stakeholder Train the Trainer Conference
- **May 2009** – RUG Tasks (RUG-IV Grouper Crosswalk and Specifications released)
- **July 2009** – Satellite broadcast (2 of 3)
- **July 2009** – FY 2010 SSNF/NF Payment Update Federal Register Notice including RUGs Changes
- **August 2009** – Satellite broadcast (3 of 3)
- **October 1, 2009** - MDS 3.0 Implementation