

The Administrator's ADVOCATE

Vol X, Issue 2



FEBRUARY 2009

ILLINOIS DECREASES SCOPE OF REPORTABLE INCIDENTS AND ACCIDENTS BY LONG-TERM CARE FACILITIES

By Robert K. Neiman of Reed Smith

Illinois long-term care facilities can report fewer serious incidents and accidents under an amended state regulation that should become effective in 2009. Fewer reports to the Illinois Department of Public Health will result in fewer surveys of your facilities. All long-term care administrators, directors of nursing, and employees should become familiar with the amended regulation to help decrease the frequency of federal and state surveys.

The Illinois Department of Public Health (IDPH) has amended Section 300.690 of the Skilled and Intermediate Care Facilities Code, 77 Ill. Admin. Code 300.690, commonly known as the "Minimum Standards," which governs when facilities must report serious incidents and accidents to IDPH.

Currently, Section 300.690 requires that facilities report to IDPH any incident or accident which has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. The amendment to Section 300.690, however, only requires that facilities report incidents or accidents that had a significant effect on resident health, safety, or welfare. Unless an incident or accident actually had a serious effect on resident health, safety, or welfare, facilities need not report such incidents or accidents to IDPH under the amended regulation.

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CARTER v. SSC ODIN OPERATING CO.

By Nicholas J. Lynn of Duane Morris

Last month, Duane Morris issued an alert that the federal government has issued a final rule that requires all federal contractors, as a condition of any future federal contract, to use the government's controversial Internet-based electronic employment eligibility verification system (E-Verify) to verify the employment eligibility of their workers. The rule was issued five months after a similar proposed rule was published that elicited more than 1,600 public comments. The rule marks the first time the federal government has required private employers to use E-Verify to verify the eligibility of its workers, which until now has been made available to employers on a voluntary basis. The final rule takes effect on January 15, 2009.

A question has been raised whether a long-term care facility which participates in the Medicare and Medicaid programs is considered a federal contractor for purposes of the government's final rule. Although the question is not easily answered due to the fact that the government has failed to address it, the following provides some guidance.

According to the Department of Labor's website:

Is a hospital or other health care provider covered under the laws enforced by [the Office of the Federal Contract Compliance Program (OFCCP)] as a result of the reimbursements it receives for medical care and services provided to Medicare or Medicaid patients?

The provider agreements, pursuant to which hospitals and other health care providers receive reimbursement for services covered under Medicare Parts A and B, and the provider agreements

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WINTER CONFERENCE

The deadline for reserving your room at the Chateau in Bloomington at the reduced INHAA rate is February 17th. This is the final year of the two year cycle to receive your 36 CEUs. The Winter Conference has a little something for all of our members.

The Conference will kick off with Jon Zimring discussing new labor legislation. Then IDPH will review some issues with the Life Safety Code including Smoking and Sprinkler Regulations. The day will conclude with Todd Shackelford looking at ways to include residents in the care plan process.

Day two begins with Jon Siegel, IDPH informing us about the changes to the Resident Incident Reporting process. Al Litwiller will wrap up the Conference by talking about the changes to F 325.

This is one Conference you will not want to miss. See you in Bloomington.

INHAA MEMBERSHIP

The 2009 memberships were due in the INHAA office by January 1st. Second notices were mailed out January 27th. Please assist the Association by sending in your membership as soon as possible. If you haven't received your notice, contact the office at (800) 709-9155.



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INHAA Office Manager

ADMINISTRATOR LICENSURE EXAMINATIONS

The Illinois Department of Financial and Professional Regulation examinations to license nursing home administrators in the State are listed below. For complete details and an application call IDFPR at 217-785-0800 in Springfield. The testing application can be downloaded from www.ildpr.com.

Dates for the NHA licensure tests are as follows:

| Location | Filing Deadline | Test Date |
|-------------|-----------------|-----------|
| Springfield | 2-06-09 | 4-09-09 |



WEB SITES TO CHECK OUT

The State of Illinois has a Web site to check the license status of the people it licenses.

[Http://www.IDFPR.com](http://www.IDFPR.com)

You may now access the Illinois nurse aide registry through the IDPH Web site <http://app.idph.state.il.us/nar>

UPCOMING INHAA EVENTS CALENDAR

2009

| | |
|--------------------|--|
| March 18-19, 2009 | Conference |
| | The Chateau Hotel & Conference Center Bloomington, IL |
| June 17-18, 2009 | Conference |
| | Par-A-Dice Hotel & Conference Center East Peoria, IL |
| August 5-6, 2009 | Conference |
| | The Chateau Hotel & Conference Center Bloomington, IL |
| November 3-4, 2009 | Convention |
| | The Crowne Plaza Springfield, IL |

ADMINISTRATOR TEST REVIEW COURSES

IHCA ó John Cirm

Saturday version in Lisle (Lisle Hilton)

Feb. 21 & March 21, 2009
May 9 & 16, 2009
Aug. 29 & Sept. 26, 2009
Nov. 14 & 21, 2009

Weekday version in Springfield (Northfield Inn)

March 3 & 4, 2009
May 12 & 13, 2009
Aug. 25 & 26, 2009
Nov. 18 & 19, 2009

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WAGE, HOUR AND UTILIZATION DATA 2007 - HSAs 1 & 10

By Margel Peddicord of RSM McGladrey

RSM McGladrey, Inc. provides the following data which has been abstracted from the 2008 cost reports that were filed with the Illinois Department of Healthcare and Family Services. We will be highlighting various statistical data by HSA in future issues. This information is intended to provide valuable benchmark statistics for LTC facilities.

| WAGE DATA: | ASST. | | RN | LPN | CNA |
|---|-------------|---------|-----------|---------|---------|
| | DON | DON | | | |
| Average Wage 2007 - HSAs 1 & 10 | \$30.35 | \$25.36 | \$23.57 | \$19.69 | \$10.60 |
| Average Wage 2006 - HSAs 1 & 10 | 29.90 | 24.84 | 22.48 | 18.97 | 10.47 |
| Percentage Increase 2006-2007 | 1.5% | 2.1% | 4.8% | 3.8% | 1.3% |
| WAGE PERCENTILES: | | | | | |
| 90th Percentile - HSAs 1 & 10 | 39.11 | 30.57 | 29.13 | 24.19 | 12.32 |
| 10th Percentile - HSAs 1 & 10 | 23.34 | 19.34 | 19.87 | 15.98 | 8.98 |
| STATEWIDE: | | | | | |
| Average Wage 2007 - Statewide | 32.38 | 28.35 | 24.72 | 20.51 | 10.75 |
| Average Wage 2006 - Statewide | 41.45 | 27.59 | 24.05 | 19.82 | 10.48 |
| Percentage Increase 2006-2007 | 3.0% | 2.8% | 2.8% | 3.4% | 2.6% |
| STAFFING: | | | | | |
| | HSAs 1 & 10 | | Statewide | | |
| Nursing Hours Paid Per Diem | 3.3 | | 3.0 | | |
| All Staff Hours Paid Per Diem | 5.5 | | 5.1 | | |
| Contract Nurse Hrs % of all Nurse Staffing | 1.1% | | 1.5% | | |
| Paid Time Off as a % of Total Time Paid | 7.5% | | 8.3% | | |
| RN, LPN, DON, & ADON % of total nursing hours | 32.4% | | 33.4% | | |
| Fringe benefits & payroll taxes % of wages | 20.3% | | 19.3% | | |
| OCCUPANCY: | | | | | |
| Average Occupancy | 78.4% | | 79.3% | | |
| Medicaid Utilization | 53.9% | | 64.0% | | |
| Medicare Utilization | 9.9% | | 11.7% | | |

Nursing staff includes: DON, ADON, RN, LPN, CNA, NA Trainees, Rehab. Aides, Contract Nursing

HSA1 includes the following counties: Jo Daviess, Stephenson, Winnebago, Boone, Carroll, Ogle, DeKalb, Whiteside and Lee

HSA10 includes the following counties: Rock Island, Henry and Mercer

Illinois Decreases Scope of Reportable Incidents and Accidents by Long-term Care Facilities continued from page 1

For example, a resident falls, but has no serious complaints of pain or decreased range of motion, and no indications of fractures or other serious injuries exist. Under the current version of Section 300.690, IDPH could view such a fall as likely to have a significant effect on a resident's health, therefore requiring a report to IDPH, and possibly triggering a survey. Under the amended regulation, however, this incident had no actual significant effect on the resident's health, and the facility therefore need not report the incident to IDPH. Because IDPH received no report, it will not conduct a survey. The facility should still, of course, update the resident's care plan to prevent recurrence, and consult with the resident's doctor and family.

The second important change to Section 300.690 eliminates the need to report incidents of accidents to IDPH merely because the facility contacted a doctor or hospital on an emergency basis regarding a serious incident or accident. Currently, Section 300.690 requires a facility to report to IDPH every time even one resident requires, on an emergency basis, the services of a physician, hospital, police, fire department, coroner, or other service provider. The new version of Section 300.690, however, states that incidents and accidents that affect the health, safety, or welfare of a group of residents or all residents in the facility and that require a response by the fire department, police department or local emergency services agency shall be reported to the Department.

Consider this scenario: a resident falls, and the facility calls the doctor, who orders the

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facility to send that resident to the emergency room via Medicare or private ambulance on a non-emergency basis, instead of ordering the facility to call 911 to have paramedics transport the resident on an emergency basis. If the ER finds no injury that had a serious effect on the resident's health, safety, or welfare, then the facility need not report the incident to IDPH under amended Section 300.690, because no emergency services agency became involved. Calls to doctors and hospitals will no longer require a report to IDPH if the resident incurred no injury that had a significant effect on their health.

Another important change to Section 300.690 is the express statement that a facility is not required to report an incident or accident that causes no harm to a resident. This changes the current requirement that facilities report to IDPH incidents that are likely to have a serious effect on the resident's health, safety, or welfare.

Lastly, the amendment to Section 300.690 requires that a facility record only reportable incidents or accidents in the progress notes or nurse's notes for each resident affected, and that the facility maintain a file of all written reports of serious incidents or accidents affecting residents. Facilities must still report to IDPH such incidents or accidents by phone within 24 hours, with a follow-up narrative filed within seven days.

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Illinois Decreases Scope of Reportable Incidents and Accidents by Long-term Care Facilities continued from page 3

These amendments materially decrease the circumstances when a facility must report incidents and accidents, and thereby decrease the number of surveys conducted by the federal and state governments. Facilities should in-service all nursing staff about the new reporting requirements when the amendments become effective to decrease the frequency of surveys.

IDPH has not yet established the date on which the amendments to Section 300.690 become effective. It is anticipated that the rule-making process may take another six to nine months. Facilities should continue reporting incidents and accidents to IDPH under the existing regulation until the amended regulation becomes effective. IDPH will make identical amendments to the regulations governing shelter care facilities, facilities for the developmentally disabled, long-term care for residents under 22 years of age, and veterans homes.

Facilities should also remember that Illinois law separately requires facilities to report allegations of abuse or neglect only when, after an investigation, the facility becomes aware that a resident suffered abuse or neglect. Facilities need not report allegations of abuse or neglect unless its investigation elicits facts giving the facility reasonable cause to believe that the allegations are true.

IDPH has also amended the Sheltered Care Facilities Code, 77 Ill. Adm. Code 330.690, the Illinois Veterans Home Code, 77 Ill. Adm. Code 340.690, the Intermediate Care for the Developmentally Disabled, 77 Ill. Adm. Code 350.690, the Long Term Care for Under 22 Facilities, 77 Ill. Adm. Code 390.690.

Reed Smith refers to Reed Smith LLP, a limited liability partnership formed in the state of Delaware.

Carter v. SSC Odin Operating Co. continued from page 1

that hospitals and other health care facilities have entered into with State Medicaid agencies, are not covered government contracts under the laws enforced by OFCCP. Accordingly, a hospital or other health care provider is not covered under the laws enforced by OFCCP if its only relationship with Federal government is as a participating provider under Medicare Parts A and B and Medicaid. A hospital or other health care provider may be a covered

contractor because of other contractual arrangements, such as providing health care to active or retired military under a contract with the Department of Veterans Affairs or the Department of Defense. Likewise, a teaching hospital doing research for a university that has a contract with the Federal government may be covered.

It appears that unless a facility receives funds from participation in a federal health care program, other than the Medicare Parts A and B and Medicaid programs, it would not be considered a federal contractor under the final rule.

NATIONAL COUNCIL OF CERTIFIED DEMENTIAL PRACTITIONERS DECLARES FEBRUARY 14th TO 21st, 2009 ALZHEIMER'S AND DEMENTIAL STAFF EDUCATION WEEK

The newest component of the NCCDP is the Alzheimer's and Dementia Staff Education Week Tool Kit. The free Tool Kit is available at www.nccdp.org. This is an effort to bring awareness of the importance of staff educators being trained and certified in dementia care and to provide education by means of face to face interactive classroom environment and to provide comprehensive dementia education to all healthcare professionals and line staff.

Currently there are no national standards for dementia education. The regulations are different from state to state. The NCCDP recommends at minimum an initial 8 hours of dementia education to all staff. Through out the year, additional dementia education should be provided that incorporates new advances, culture change and innovative ideas.

In addition to facilitating the Train the Trainer programs, the NCCDP promotes dementia education and certification of all staff as Certified Dementia Practitioners (CDP). The NCCDP recognizes the importance of trained and educated dementia unit managers and certifying the Dementia Unit Manager as Certified Dementia Care Manager (CDCM).

Front Line First Responders need comprehensive Dementia training and the NCCDP provides Alzheimer's and Dementia training to First Responder educators and certification as Certified First Responder Dementia Trainer.

The tool kit includes:

- Free Power Point / Over Head In-services for Health Care Staff, Tests and Answers, Seminar Evaluation and Seminar Certificates.
- 54 Ways to Recognize Alzheimer's and Dementia.
- 20 Reasons Why You Should Provide Comprehensive Alzheimer's and Dementia Training to Your Staff by A Live Instructor.
- Dementia Word Search Games and Interactive Exercises
- Movies and Books About Alzheimer's You Don't Want To Miss
- Proclamation and Sample Agenda for Opening Ceremony and Sample Letter to Editor
- Contest Entry Forms - Staff Education Week
- Alzheimer's Bill of Rights and Alzheimer's Patient Prayer

NEW FORM I-9, EMPLOYMENT ELIGIBILITY VERIFICATION AND SOCIAL SECURITY "NO-MATCH" LETTERS UPDATE FOR EMPLOYERS

By Nicholas J. Lynn of Duane Morris

Effective February 2, 2009, employers will be required to complete a new, revised Form I-9 Employment Eligibility Verification for (a) all newly hired employees and (b) reverification of certain employees with temporary work authorizations, upon the expiration of that authorization. A new Form I-9 should not be completed for existing employees. The most significant changes in the new Form I-9 from the current Form I-9 include a reduced list of acceptable documents, a revised instructions sheet and a new Form M-274 Handbook for Employers.



WAGE, HOUR AND UTILIZATION DATA 2007 - HSA 3

By Margel Peddicord of RSM McGladrey

RSM McGladrey, Inc. provides the following data which has been abstracted from the 2008 cost reports that were filed with the Illinois Department of Healthcare and Family Services. We will be highlighting various statistical data by HSA in future issues. This information is intended to provide valuable benchmark statistics for LTC facilities.

| WAGE DATA: | ASST. | | RN | LPN | CNA |
|---|---------|-----------|---------|---------|---------|
| | DON | DON | | | |
| Average Wage 2007 - HSA 3 | \$27.29 | \$22.45 | \$21.39 | \$17.16 | \$10.17 |
| Average Wage 2006 - HSA 3 | 26.11 | 22.02 | 20.92 | 16.53 | 9.77 |
| Percentage Increase 2006-2007 | 4.5% | 2.0% | 2.2% | 3.8% | 4.1% |
| WAGE PERCENTILES: | | | | | |
| 90th Percentile - HSA 3 | 33.64 | 27.53 | 25.02 | 19.49 | 11.36 |
| 10th Percentile - HSA 3 | 22.08 | 18.15 | 18.00 | 14.90 | 8.87 |
| STATEWIDE: | | | | | |
| Average Wage 2007 - Statewide | 32.38 | 28.35 | 24.72 | 20.51 | 10.75 |
| Average Wage 2006 - Statewide | 31.45 | 27.59 | 24.05 | 19.82 | 10.48 |
| Percentage Increase 2006-2007 | 3.0% | 2.8% | 2.8% | 3.4% | 2.6% |
| STAFFING: | | | | | |
| | HSA 3 | Statewide | | | |
| Nursing Hours Paid Per Diem | 3.3 | 3.0 | | | |
| All Staff Hours Paid Per Diem | 5.5 | 5.1 | | | |
| Contract Nurse Hrs % of all Nurse Staffing | 0.3% | 1.5% | | | |
| Paid Time Off as a % of Total Time Paid | 6.5% | 8.3% | | | |
| RN, LPN, DON, & ADON % of total nursing hours | 35.1% | 33.4% | | | |
| Fringe benefits & payroll taxes % of wages | 19.0% | 19.3% | | | |
| OCCUPANCY: | | | | | |
| Average Occupancy | 75.9% | 79.3% | | | |
| Medicaid Utilization | 57.9% | 64.0% | | | |
| Medicare Utilization | 11.8% | 11.7% | | | |

Nursing staff includes: DON, ADON, RN, LPN, CNA, NA Trainees, Rehab. Aides, Contract Nursing

HSA3 includes the following counties: Adams, Brown, Calhoun, Cass, Christian, Greene, Hancock, Jersey, Logan, Macoupin, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler & Scott

CONTINUING EDUCATION

The Continuing Education Institute of Illinois in cooperation with the University of Illinois Department of Family Medicine will be providing comprehensive CEUs for Nurses, Nursing Home Administrators, Physical Therapists, Occupational Therapists, Social Workers and other health care professionals in the following Spring, 2009 programs:

The Multi-Disciplinary Certificate Program in Case and Care Management

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EMPLOYMENT ALLEY is published monthly for members and business members. The cost for nonmembers is \$30.00 a month - \$50.00 for two months - \$70.00 for three months. A business member listing is \$25.00 for one month - \$40.00 for two months - \$55.00 for three months. Send your approximate 55-word ad and payment to INHAA, P. O. Box 111, Lanark, IL 61046-0111 or fax 815-493-6507. For further information call Bob Roiland, Editor, 800-709-9155.

Continuing Education continued from
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and

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HEALTHCARE BULLETIN #2008-59

*Frost, Ruttenberg & Rothblatt, P. C.
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MEDPAC RECOMMENDS ZERO INCREASE IN 2010 FOR SKILLED NURSING FACILITIES AND HOME HEALTH AGENCIES

On December 4 and 5, 2008, the Medicare Payment Advisory Commission (MedPAC) met to discuss recommendations for Fiscal Year 2010, which begins October 1, 2009. Their draft report to Congress recommends no increase in the market basket for Medicare payment rates for either skilled nursing facilities (SNFs) or home health agencies (HHAs).

MedPAC based their recommendations for SNFs on the fact that the overall profit margins projected for SNFs in 2009 is 12.6%, with 17.5% profit margins on average for for-profit facilities, and 4.5% for non-profit facilities. In addition, MedPAC reports that the number of SNFs remains relatively stable and that beneficiaries experience few problems in accessing services.

For HHAs, MedPAC presented 2 draft recommendations: one with no market basket increase and the other reducing payments by 2.75%. The MedPAC committee expressed concerns that the number and use of HHAs has increased and that the rapid growth has raised fraud and abuse concerns.

Most industry associations are against these recommendations and are launching efforts to dissuade President-elect Obama and the incoming Congress not to endorse the reports.

HEALTHCARE BULLETIN #2008-56

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MEDICAID SPOUSAL IMPROVERISHMENT STANDARDS FOR 2009

The Illinois Department of Healthcare and Family Services has published the spousal impoverishment standards that will be in effect beginning January 1, 2009.

The Community Spouse Asset Allowance (CSAA) standard will increase from \$104,400 to \$109,560. The CSAA standard is the maximum amount of assets a resident may transfer to a community spouse or to another for the sole benefit of a community spouse.

The Community Spouse Maintenance Needs Allowance (CSMNA) will increase from \$2,610 to \$2,739. The CSMNA standard is the maximum amount of monthly income the resident may give to a community spouse. This amount is calculated based on the gross income of both spouses.

HEALTHCARE BULLETIN #2008-31

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LAUNCHING OF THE FIVE-STAR RATING SYSTEM

On December 18, 2008, the Centers for Medicare and Medicaid Services (CMS) will unveil its Five-Star Quality Rating System on the Nursing Home Compare website. Providers will have received access to their individual Five-Star rating beginning December 16, 2008. The preview will have been sent to providers via their electronic connection to their state servers for submission of Minimum Data Set (MDS) data. States received the information from CMS on December 15, 2008.

Nursing homes will receive an overall rating based on facility performance on 3 types of measures: Health Inspections, Staffing, and Quality Measures. Nursing Home Compare will also display the star ratings for each of the 3 performance measures alongside the overall rating. Nursing homes with 5 stars are considered to have much above-average quality and nursing homes with 1 star are considered to have quality much below-average.

The Nursing Home Compare website is at:
www.medicare.gov.

HEALTHCARE BULLETIN #2008-58

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INTERNET-BASED MEDICARE ENROLLMENT IS ON ITS WAY

The Centers for Medicare and Medicaid Services (CMS) is making it possible for providers to enroll or make a change in their Medicare enrollment information via the internet. The internet-based Provider Enrollment, Chain and Ownership System (PECOS) will allow enrollment online, or changes to be made online, in the near future. Submitting enrollment applications online will considerably speed up the process of enrollment by as much as 50%. PECOS will allow providers to update, make corrections, and check on the status of their Medicare enrollment applications.

PECOS meets all required government security standards for data entry, data transmission, and electronic storage of Medicare enrollment information. Only authorized individuals can enter enrollment information into PECOS or view PECOS data from the internet. User IDs and passwords will protect access to enrollment information.

As of December 1, 2008, PECOS became available for physicians and non-physician practitioners from 15 states and the District of Columbia to enroll online or make changes to their enrollment information. In the next 2 months, the system will be available to physicians and non-physician practitioners in all 50 states. The first 15 states in which PECOS for enrollments is currently available are: Delaware, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Maryland, Michigan, New Jersey, North Carolina, Pennsylvania, Tennessee, and Wisconsin. Another 8 states were added to the system on December 10, 2008: Connecticut, Hawaii, Indiana, Kentucky, Nevada, New York, Ohio, South Carolina, and West Virginia.

Skilled nursing facilities, home health agencies, hospices, and other Part A providers are not included at this time.

During the next year, all other provider types (except DMEPOS suppliers) will be added to the system. FR&R will issue additional bulletins as the program expands to include additional provider types.