



policy break

Knowledge. Action. Change.

December 4, 2018

New CMS Initiative to Focus on Staffing

On November 30, 2018, the Centers for Medicare and Medicaid Services (CMS) released a [memo](#) outlining several actions it is implementing related to staffing. Two key steps the agency is taking are described below.

1. CMS is requiring a) states to target certain facilities with low weekend staffing for weekend surveys; and b) surveyors to investigate compliance with the requirement for an RN eight hours a day, seven days a week in facilities with reported days without an RN onsite.

CMS review of the new Payroll-Based Journal (PBJ) data has determined that some facilities are reporting days without any RN on duty and/or significantly low nurse staffing levels on weekends. As a result, CMS will use the PBJ data to prepare a list of facilities with potential staffing issues that it will provide to state survey agencies. CMS Regional Offices will also receive this information.

The list will be used to focus greater attention on facilities with possible insufficient staffing levels as follows:

- State survey agencies are mandated to complete 10% of all surveys in their state on the weekend or before 8:00 am or after 6:00 pm. **They will now be required to conduct at least 50% of those off-hours surveys on the weekends and in the facilities CMS has identified as having low weekend staffing.**
- For facilities identified as having reported days with no RN onsite, **surveyors will investigate facility compliance with 42 C.F.R. 483.35(b)(1), which requires the facility to provide services of an RN seven days a week, eight hours a day.** If a surveyor confirms that this requirement has not been met, the facility will be cited for noncompliance under deficiency F-tag 727.

2. Clarifying policies in the Payroll-Based Journal (PBJ) manual related to reporting hours for universal care workers.

To-date, facilities have been directed to report hours based on an employee's primary role. However, in some nursing homes, certified nursing assistants serve as universal care workers. This means that in addition to carrying out CNA duties, they also perform non-CNA responsibilities, such as cooking and housekeeping. It is therefore inaccurate to report all their time as CNA hours. To address this issue,

CMS is instructing facilities to use a reasonable procedure to determine the number of hours certified nursing assistants are providing CNA services and report these hours accordingly. Other duties such as housekeeping and cooking are not to be reported as CNA hours.

What Can Advocates Do?

- Document information /observations/complaints about facilities with short staffing on weekends and lack of an RN onsite. Ombudsmen can share that information with surveyors at the time of the survey/complaint investigation; other advocates can share it with the state survey agency.
- Encourage residents and families to also observe and document short staffing on weekends/lack of an RN and share that information with surveyors during a survey or complaint investigation.

For more information, contact us at info@theconsumervoice.org.