
ICF/MR BRANCH NEWSLETTER

NC Department of Health and Human Services
Division of Facility Services
Mental Health and Licensure Certification Section

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The purpose of this Newsletter is to provide information and updates on ICF/MR issues in North Carolina. We ask that you pass it on to the homes, facilities and organizations that serve your clients. Additionally if you have any questions, comments or suggestions do not hesitate to contact us at Jay.Silva@ncmail.net or Denise.Erwin@ncmail.net. You may also contact us by calling (919) 855-3795 and asking for an ICF/MR facility consultant or writing to:

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Comments from the Chief

Due to recently passed legislation (Senate Bill 163) the Department has been working on temporary rules to allow for area authority or county program monitoring of mental health, developmental disability and substance abuse services within each area program's catchment area. The proposed rules will be published in the May 1, 2003 edition of The North Carolina Register and are scheduled to become effective July 1, 2003. The Register can be viewed at the following website:
<http://www.oah.state.nc.us/rules/register/>

The Department will hold a Public Hearing on Wednesday, May 7, 2003 from 2 p.m. until 4 p.m. at Haywood Gym located on the Dorothea Dix Hospital campus in Raleigh (directions to Haywood Gym are provided below). The Public Hearing is being held to allow individuals to comment on the proposed temporary rules that have been developed as a result of the new law. The temporary rules can be viewed at the following web site:
<http://www.dhhs.state.nc.us/mhddsas/sb163/index.htm>

Please note that oral comments will be limited to 3 minutes and written comments will also be accepted. For additional information concerning the above Public Hearing, please do not hesitate to contact me at 919-855-3796.

To reach the Haywood Gym, take Exit 297 (Lake Wheeler Road) off of I-440 around Raleigh and follow the signs for Dorothea Dix Hospital. The Gym is located directly behind the Hospital at the corner of Richardson Drive and Umstead Drive.

Jeff Horton, Chief
DFS Mental Health Licensure and Certification Section.

ICF/MR Surveys for North Carolina - Numbers for the 1st Quarter

January 1 through March 31, 2003

81 recertification surveys, 6 Follow-up surveys and 16 complaint surveys were conducted this quarter resulting in a total of 332 W tags cited. Specifically they included:

Standard Level citations: 328

Conditions cited:

W 102 Governing Body	0
W 122 Client Protections:	2
W 195 Active Treatment:	0
W 266 Client Behavior and Facility Practices:	0
W 318 Health Care:	2

Additionally, conditions of participation resulted in 1 Immediate Jeopardy being cited and penalties being assessed as a result of a recertification survey. No conditions were cited as a result of complaint surveys conducted this quarter. The information listed does not include citations from life safety code surveys. Only those follow-ups resulting in citations are included above.

Most frequently cited deficiencies, 1st quarter:

<i>W-249</i>	<i>62 times</i>
<i>W-288</i>	<i>17 times</i>
<i>W-369</i>	<i>17 times</i>
<i>W-154</i>	<i>13 times</i>
<i>W-257</i>	<i>12 times</i>
<i>W-120</i>	<i>11 times</i>
<i>W-247</i>	<i>10 times</i>
<i>W-242</i>	<i>9 times</i>
<i>W-153</i>	<i>8 times</i>
<i>W-227</i>	<i>7 times</i>

The information listed above does not include citations from life safety code surveys.

The following facilities had deficiency-free annual recertifications since January 2003:

Corbel Residential Home, Orrum, N.C.

Jade Tree Group Home, Raleigh, N.C.

Residential Services, Inc., Shady Lane, Chapel Hill, N.C.

Riverview Group Home, Lincolnton, N.C.

VOCA, Kimsey Group Home, Wilkesboro, N.C.

If you did receive a deficiency free annual survey (General and Life Safety) and we failed to identify your facility, please notify us (Joseph.Milanese@ncmail.net) and we will include it in the next edition of the newsletter.

Center for Medicaid and Medicare Services (CMS) Notes

Information on the Health Portability and Accountability Act of 1996 can be found at <http://cms.hhs.gov/hipaa/> . Here is some of the information available on that website.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA)

HIPAA is the acronym for the Health Insurance Portability and Accountability Act of 1996. The Centers for Medicare & Medicaid Services (CMS) is responsible for implementing various unrelated provisions of HIPAA, therefore HIPAA may mean different things to different people. Here's a directory of CMS's business activities with regard to HIPAA.

HIPAA Health Insurance Reform

Title I of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects health insurance coverage for workers and their families when they change or lose their jobs. Visit this site to find out about pre-existing conditions and portability of health insurance coverage.

HIPAA Insurance Reform

HIPAA Administrative Simplification

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) require the Department of Health and Human Services to establish national standards for electronic health care transactions and national identifiers for providers, health plans, and employers. It also addresses the security and privacy of health data. Adopting these standards will improve the efficiency and effectiveness of the nation's health care system by encouraging the widespread use of electronic data interchange in health care.

Additional information about ICF/MR programs can be found at the CMS ICF/MR Home Page:
<http://cms.hhs.gov/medicaid/icfmr/default.asp>

Net Links:

We have identified a number of Net Links, which may be helpful to you in the care of your clients. If you know of others, please let us know at Joseph.Milanese@ncmail.net and we will add them for the benefit of others in the ICF/MR community. To use the list click on the link below or cut and paste it to the location (Netsite) field on your browser page.

Federal

Centers for Medicare & Medicaid Services <http://cms.hhs.gov/>

ICF/MR <http://www.hcfa.gov/medicaid/icfmr/icfhmpg.htm>

Medicare <http://www.hcfa.gov/medicare/mcarpti.htm>

Medicaid <http://www.hcfa.gov/medicaid/medicaid.htm>

Laws and Regulations <http://www.hcfa.gov/regs/>

State

N.C. Government <http://www.ncgov.com/>

North Carolina Department of Health and Human Services <http://facility-services.state.nc.us/>

The Division of Facility Services <http://facility-services.state.nc.us/>

Nurse Aide I and Health Care Personnel Registry <http://www.ncnar.org/>

ICF/MR Organizations

North Carolina Association of Community Based ICF/MR Providers
<http://www.ncicfmr.org/>

National Association of QMRP <http://www.qmrp.org/index.shtml>

American Association for the Mentally Retarded (AAMR) <http://www.aanr.org/index.shtml>

The ARC <http://www.thearc.org>

HIPAA

The newsletter received a request for information from a provider, specifically asking if we could address “HIPAA compliance issues and small ICF/MR’s.” As was pointed out in the request, “this is no small task ...”

While each facility or corporate entity must review and determine how they have to meet these rules, we did feel it was appropriate to provide information on how HIPAA (the Health Insurance Portability and Accountability Act of 1996) potentially would affect the ICF/MR survey process.

Historically, HIPAA derives its roots from ground work done in 1975 to create an industry wide standard hospital claim form. This resulted in the UB-82 billing format developed by the National Uniform Billing Committee. The Health Care Financing Administration (HCFA) developed the HCFA standard form 1500 (physician claim from the National Uniform Claim Committee) at a later date.

A number of issues were addressed over the years, not the least of which was how to protect the privacy of clients in an age of electronic transmission and the need to share large amounts of personal information between providers and third parties, such as insurance companies. While the health care industry did a lot to address these various issues it became apparent over time that in order for progress to be made there would be a need for mandates and laws.

In the 1995-96 congressional session Congress moved to create HIPAA which was designed to require industry standards to decrease cost and simplify the administrative process. It also covered privacy and security of health information and the Department of Health and Human Services (HHS) was required to write the national privacy regulations.

Working closely with the health care industry the Centers for Medicare & Medicaid Services (CMS, formerly Health Care Financial Administration), and HHS wrote the regulation titled, “Health Insurance Reform: Security Standards; Final Rule 45 CFR Parts 160, 162, and 164.” The regulations became effective on April 21, 2003. The compliance dates included, “... Covered entities, with the exception of small health plans, must comply with the requirements of this final rule by April 21, 2005. Small health plans must comply with the requirements of this final rule by April 21, 2006.”

The focus for ICF/MR has not changed as result of these rules per se. The regulations governing ICF/MR facilities requires in the Code of Federal Regulations (CFR) 483.410 (c) (2-3), tag W112 that, “The facility must keep confidential all information contained in the clients’ record, regardless of the form or storage method of the records.” It continues at W113, “The facility must develop and implement policies and procedures governing the release of any client information, including consents necessary from the client, or parents (if the client is a minor) or legal guardian.”

HIPAA does take into account the need of over sight agencies to have access to the personal information of clients served by various medical facilities and agencies and makes it clear that they are not considered as “Business Associates” and allows them unrestricted access to this privileged (personal) information. Specifically the North Carolina Department of Health and Human Services developed the “HIPAA Guidance for Identifying Business Associates - Final Version” on March 21, 2003.

It includes the following information: “Oversight Agency = *Oversight agencies* are agencies that are responsible for monitoring government programs and the health care system. These oversight agencies are

not performing services for or on behalf of the covered entities and so are not business associates of the covered entities. For example, HCFA (now CMS), the federal agency that administers Medicare, is not required to enter into a business associate contract in order to disclose protected health information. Protected health information may be exchanged between covered health care components and oversight agencies without consent, authorization or Business Associate agreement. “

It additionally defines protected (personal) information as:

“Protected Health Information = *Protected health information* means individually identifiable health information:

- (1) Except as provided in paragraph (2) of this definition, that is:
 - (i) Transmitted by electronic media; or
 - (ii) Maintained in any medium described in the definition of *electronic media* at § 162.103 of this subchapter; or
 - (iii) Transmitted or maintained in any other form or medium.
- (2) *Protected health information* excludes individually identifiable health information in:
 - (i) Education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. 1232g; and
 - (ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv).”

We hope that this will be helpful in defining and meeting requirements under the various federal rules and regulations that implement the Health Insurance Portability and Accountability Act of 1996. Additional information can be found on the CMS web site, <http://cms.hhs.gov/hipaa/> .

We invite others who have questions or ideas for the Newsletter to please send them to us at Joseph.Milanese@ncmail.net .

(A final note – we hope that you have found the information we have provided helpful and educational. The ICF/MR Branch has a common goal with the various ICF/MR facilities in North Carolina to ensure the clients have the best life experience available to them.)

ICF/MR SURVEY BRANCH