

North Dakota Department of Health  
Division of Health Facilities

LONG TERM CARE ADVISORY  
COMMITTEE MEETING MINUTES

September 23, 2009

Committee Members Present:

Darleen Bartz, Chief, Health Resources Section, ND Department of Health  
Bruce Pritschet, Division of Health Facilities, ND Department of Health  
Arvy Smith, Deputy State Health Officer, ND Department of Health  
Bev Herman (representing Shelly Peterson), North Dakota Long Term Care Association  
Randal Albrecht, Chair, ND Board of Examiners for Nursing Home Administrators  
Barb Groutt, North Dakota Health Care Review, Inc.  
Representative Gary Kreidt, ND House of Representatives (New Salem)  
Carole Watrel, AARP  
Dave Remillard, Public Member, Minot  
Kurt Stoner, Administrator, Bethel Lutheran Home, Williston  
Kaye Hessinger, Recorder, Division of Health Facilities, ND Department of Health

Committee Members Absent:

Dr. Jonathan Berg, Nursing Home Medical Directors Association  
Joan Ehrhardt, State LTC Ombudsman, ND Department of Human Services  
Karen Tescher, Assistant Director, LTC Continuum  
Betty Keegan, Rolette County Social Service Board

Other Individuals Present:

Joan Coleman, Division of Health Facilities, ND Department of Health  
Monte Engel, Division of Life Safety & Construction, ND Department of Health

Welcome

A meeting of the Long Term Care Advisory Committee was called to order at 10:00 a.m. on September 23, 2009. Darleen Bartz expressed her appreciation for everyone being here today, and welcomed them to the meeting. She stated that recent changes to the group included: Maggie Anderson appointed Karen Tescher from the Department of Human Services to represent her; Barb Groutt is relatively new to the committee and represents the QIO; Dave Remillard is a public representative; and Arvy Smith replaced Dr. Lambrecht as the State Health Officer designee.

## Approval of Minutes

Minutes of the December 12, 2008 meeting were approved as distributed. Dave Remillard made a motion to approve the minutes; seconded by Representative Kreidt. Motion carried.

## Standing Reports

### Legislative Update

Representative Kreidt said the legislative session seemed like a long time ago. A lot of things happened the last session, and a lot of good things happened. Regarding funding for basic care, there was a 6% increase, and in long term care there was a wage pass through. In the Governor's budget there was no discussion of a wage pass through and we were able to come up with \$18 million dollars for these facilities. He said it is probably too early for long term care to see any effects of those dollars.

What Representative Kreidt felt was exciting was the surveying of construction projects. Three hundred thousand dollars was budgeted to expand this project. He questioned if the Health Department was able to hire the staff. Darleen Bartz stated that both positions have been filled and one of the individuals has already been out on the road.

The moratorium on skilled and basic care beds has been moved out to 2013, but it will be looked at again next legislative session. Representative Kreidt asked what has been taking place at Steele. Darleen Bartz recently attended the assisted living workgroup. Someone from Steele attended this meeting and said they are still looking at a combination of assisted living and basic care beds. They are seeking guidance as they move forward.

Representative Kreidt said the two registries will be studied during the interim. Currently the Department of Health oversees the certified nurse aide registry, and the Board of Nursing is responsible for the registry for the UAP's (unlicensed assistive personnel). He is hoping that during the interim, some of these issues can be resolved.

Representative Kreidt serves as Chairman of the Long Term Care Committee, with the first meeting taking place the later part of October. The 2009-2010 interim studies for this committee include:

- Study long term care services in the state.
- Study the impact of individuals with traumatic brain injury, including veterans who are returning from wars, on the state's human services system.
- Study how the state laws and administrative rules regulate basic care and assisted living facilities.

- Study any steps necessary to enable the State Department of Health to administer the registry for certified nurse assistants, nurse assistants, and unlicensed assistive persons, and examine the possibility of one registry and a potential location for that registry.
- Receive a report from the Department of Human Services during the 2009-2010 interim, but after June 30, 2010, regarding the outcomes of the dementia care services program.
- Receive a report from the Department of Human Services before September 1, 2010, regarding the outcomes and recommendations from the study of the methodology and calculations for the rate setting structure for public and private licensed developmental disability and home and community based service providers.

As a member of the Health and Human Services Committee, Representative Kreidt highlighted areas this committee would be involved with:

- Study unmet health care needs in the state.
- Study of voucher use and provider choice for clients in various human services and other state programs, including programs related to mental health services, addiction treatment, counseling services, transition services, various home services, and other special services.
- Study the state immunization program.
- Study existing services for minors who are pregnant.
- Study the extent to which the funding mechanisms and administrative structures of the federal, state, and county governments enhance or detract from the ability of the social service programs of tribal governments to meet the needs of tribal members.
- Receive annual report from the Department of Human Services describing the enrollment statistics and costs associated with the children's health insurance program state plan.
- Contract with a private entity, after receiving recommendations from the Insurance Commissioner, to provide a cost-benefit analysis of every legislative measure mandating health insurance coverage of services or payment for specified providers of services, or an amendment that mandates such coverage of payment.
- Receive periodic reports from the State Health Officer and the Regional Public Health Network Task Force during the 2009-2010 interim on the protocol for the regional public health network.
- Receive annual reports from the Department of Human Services during the 2009-2010 interim regarding the status of the alternatives-to-abortion services program.
- Receive accountability report from the ND Fetal Alcohol Syndrome Center before September 1, 2010 with respect to the use of funds granted to the center by the State Department of Health.

Randal Albrecht said with all the changes coming with health care reform, he thinks a lot of the transitional units in the state will be closing, and that there will be a real void in the health care setting regarding sub-acute and acute. He questioned if we would have a group of people out there who will have a void in their needs. Darleen Bartz asked if he sees this as a point of funding, or where the services are going to be provided. Randal stated he thinks it will be both, and there will be a group of people with unmet needs. Representative Kreidt said these are some of the issues that the Long Term

Care Interim Committee will be looking at. Darleen Bartz stated that the Department of Human Services wants to transfer beds from the sub-acute. These beds can be sold and transferred into long term care, and then can be certified for both Medicare and Medicaid. Merit Care is looking at transitioning out. Dave Remillard stated it seems to him that hospitals are going to be stuck with longer stays because some of these needs will not be met in long term care.

#### Comments from the ND Department of Human Services

Karen Tescher reported that the HCBS team has been working on the administrative rule process in Home and Community Based Services to add the third tier of personal care. This will allow individuals that require more personal care to access 10 hours per day. This is an increase from the 8 hours available at this time.

The Department of Human Services is submitting an amendment to their HCBS waiver to increase the age limit to 18 years, increase the home delivered meals from 3 to 7 per week, and update the Qualified Service Provider information for the rate increases that were received through the legislative session.

The HCBS team has coordinated a public education meeting to increase community awareness of the many services that are available. A power point has been developed and distributed among various provider groups.

Work has begun on writing the Children's Hospice waiver. This will allow additional services for a child that has a life limiting diagnosis while continuing to receive curative care.

The Assisted Living Work Group has reconvened following the legislative session, and will continue to work on identified areas of concern.

#### Comments from the ND Department of Health, Division of Health Facilities

Bruce Pritschet talked about several deficiency citation reports. The first report provided statistics regarding the average number of health care deficiencies per survey by scope and severity for fiscal year 2009. This report compared North Dakota to other states in Region VIII, as well as a comparison with all the other regions in the U.S. North Dakota averages 3.68 deficiencies per survey in 84 surveys; Colorado has an average of 6.01 deficiencies in 401 surveys; Montana averages 4.36 deficiencies in 122 surveys; South Dakota averages 4.77 deficiencies in 97 surveys; Utah averages 3.15 deficiencies in 168 facilities; and Wyoming averages 4.47 deficiencies in 53 surveys. The national average is 2.13, and Bruce stated the National average has always been lower than the region. Darleen Bartz said that as North Dakota moves toward the QIS process, we will see the lower deficiency rates slowly creeping up throughout the nation. The deficiencies may be more, but the scope and severity will likely be less. The University of Colorado would probably have some statistics on the QIS process. Darleen said the Health Department had visited with the NDLTC Association regarding the QIS process as far as how soon we should move ahead, and it was the thought we should hold back a couple years. Bev Herman commented that those

states who have the QIS process in place have really liked the survey process. There seems to be much more consistency on the deficiency citations. Darleen Bartz said we have a lot of experience in our regional office, however, at the moment we are looking at a leadership change. Arvy Smith said we have data to show we have good, safe nursing homes in the state. The study, My Innerview, reflects this data and is available for review. Randal Albrecht said we are hearing out there that more deficiencies are being cited lately. Darleen stated there are more issues in the area of abuse, and reporting abuse. It may be a good time to add training on nurse aide abuse, and immediate jeopardy to the Quality of Care series, which is sponsored by the Health Department and the ND Long Term Care Association. Bruce Pritschet said another area of concern is shortage of staff, which in turn leads to additional investigations. Randal Albrecht said he has observed two main issues which include staffing, and also the types of residents coming in. Many of these residents have lots of behaviors, and maybe we need to look at special needs beds.

The second report contained information on Double G Citations and compared North Dakota with the other 50 states for fiscal year 2009. North Dakota did not have any Double G citations this fiscal year. The final report indicated the most frequently cited deficiencies for the state of North Dakota. The first three deficiencies were the top three cited in the nation and in the region. Bruce said that F323 was combined with a couple regulations so will likely remain the most cited deficiency. The top three citations are F323 (Facility is free of accident hazards); F309 (Provide necessary care for highest practical well being); and F371 (Store, prepare, and distribute food under sanitary conditions). In North Dakota, F323 had 30 citations in 33.30% of providers cited; F309 had 27 citations in 32.10% of providers cited; and F371 had 22 citations in 26.20% of providers cited. These statistics were obtained from a total number of 85 surveys in 84 active providers.

#### Comments from the ND Department of Health, Division of Life Safety and Construction

Monte Engel reviewed the qualifications for the two new positions that were filled for plans reviewer/construction inspector. The individuals hired for these positions are Karla Aldinger and Steve Ressler. During the 2009 Legislative Session, these new positions were approved for the Department of Health to conduct onsite inspections of new construction and remodeling in health care facilities licensed by the Division of Health Facilities. Monte was assigned this added workload, in addition to his previous responsibilities. In a memo to health care facility administrators in July, 2009, Darleen Bartz stated that due to the specialized and complex technical nature of the work, plus the added workload, the Division of Life Safety and Construction was created to respond to these statewide responsibilities. Monte was assigned to serve as the director of this new division, as well as the lead for the Life Safety Code Business Process Reengineering Workgroup.

Monte also discussed his handout, Average Number of Deficiencies Report, for life safety code in fiscal year 2009. To date, 68 of 84 life safety code surveys are complete and entered into the system this fiscal year. The average number of life safety code deficiencies by scope and severity compared North Dakota to the other states in Region VIII. North Dakota has an average number of 2.25 deficiencies per survey in 68 surveys; Colorado has 6.12 in 201 surveys; Montana has 9.42 in 69 surveys; South Dakota

has 3.03 in 95 surveys; Utah has 5.69 in 80 surveys; and Wyoming has 5.54 in 26 surveys. Darleen Bartz said we have really seen some positive changes in the life safety code area. Kurt Stoner feels the workgroups that have been formed in the Health Department, plus the seminars put on by the Long Term Care Association have been very beneficial.

Monte Engel shared another report with the group that lists the top cited deficiencies in the area of life safety code for the reporting period of October 1, 2008 through September 30, 2009. The top six tags in this area are:

1. K0029 (Hazardous Areas-Separation) These citations primarily involve mechanical and storage areas. North Dakota had 13 citations in 19.10% of actual surveys.
2. K0130 (Other) These deficiencies are not assigned a specific tag number, i.e., gas systems and numerous other NFPA standards. North Dakota had 12 citations in 17.60% of actual surveys.
3. K0069 (Cooking Equipment) North Dakota had 10 citations in 14.70% of actual surveys.
4. K0062 (Sprinkler System Maintenance) – Primarily testing and maintenance. North Dakota had 10 citations in 14.70% of actual surveys.
5. K0056 (Automatic Sprinkler System) North Dakota had 9 citations in 13.20% of actual surveys.
6. K0012 (Construction Type) – Primarily materials used. North Dakota had 9 citations in 13.20% of actual surveys.

Monte also mentioned that the deadline for installation of sprinkler systems is August, 2013.

#### Business Process Reengineering Update

As lead facilitator for the Business Process Reengineering Committee, Monte gave a report on the agenda from the last meeting of this workgroup on September 3, 2009. The following is a summary of the agenda:

- ✓ Darleen Bartz referred to a memo dated July 23, 2009 notifying health care facilities about the newly created Division of Life Safety and Construction. This division is located within the Health Resources Section of the State Health Department.
- ✓ Formation of a website to transfer pertinent data from the Division of Health Facilities into the new website. Monte reviewed the design of the website for the new Division of Life Safety and Construction. Minutes from the BPR meetings will be posted on this website. Other suggested areas to be included on the website would be a list of the top ten LSC tags, memos relating to the new Division, and information regarding fees for construction plans review and onsite construction visits.
- ✓ Hiring status for the Construction Inspector/Plans Reviewer positions.
- ✓ Status of plans review – the division has seen a decrease in the number of plans it has been receiving, and progress is being made as far as being up-to-date on the reviews. When asked if the hold up of a review would delay any earth work for this fall, Monte responded that he didn't think there would be a delay because the major projects have been coming in as phases.
- ✓ Monte referred to a memo dated July 23, 2009 that was sent to hospital, nursing facility, and basic care administrators regarding fees for plans review and onsite construction visits. Darleen

said she had not received any feedback or concerns with this memo. Many of the facilities were not aware of the process until they received this information.

- ✓ Information contained in the memo on fees for construction plans review and onsite construction visits was sent to the Attorney General's Office for their opinion, and some verbiage was added per their review. Attached to this memo was a policy developed by the ND Department of Health titled, "Procedure for Construction or Renovation Plans Review for Facilities Subject to Licensure by the Division of Health Facilities". The committee recommended sending the memo out to the architects so they are aware of the requirements, including submittal of change orders. BPR committee members stated they have been hearing a lot of compliments regarding the LSC surveys and the survey process.

Darleen Bartz referred to another memo dated September 8, 2009 regarding construction approval that was sent to hospitals, long term care facilities, basic care facilities, and architects. She stated that our office continues to see an increasing problem with construction occurring in facilities prior to or without department approval. Prior to construction, State licensing rules require this office to review and approve plans and specifications for all construction, remodeling, and installations. In order to avoid violations of these requirements, Darleen asked for cooperation in planning physical changes to these buildings. This requirement also applies to any changes that would affect any of the standards for approval that are made to the plans and specifications, or to the actual construction, after the Department has given approval.

#### CMS Update - Special Focus Facility (SFF) Survey Scoring Methodology

Bruce Pritschet said this program has been in existence since 1998, and was expanded in 2005. Every state has to have at least one special focus facility. He said there are 18 months or three surveys before a facility can be removed from the SFF status. Barb Groutt stated that on August 1, 2009, CMS assigned a role to the QIO to give intensive assistance to the special focus facility for a year. The QIO can continue to work with the SFF currently, but can also add a new facility. Bruce said the scoring methodology for the Special Focus Facility comprises two scores: the deficiency score and the revisit score. Results from the most recent surveys are weighted more heavily than results from earlier surveys. The SFF selection methodology may be understood as a five-step process:

1. Health Deficiencies: Health deficiencies are scored and weighted.
2. Revisits: If the facility required more than one revisit to demonstrate substantial compliance, additional points are added to the SFF score.
3. Weighting by Year: Results are totaled and weights are assigned to each period, with more recent results weighted more heavily.
4. List per State: The facilities are grouped within each State and the 15 facilities with the highest SFF scores (i.e., most serious and persistent health care deficiency histories) are presented to the State for consideration as SFF facilities.

5. State Recommendation and Selection: Each State reviews the candidate list, brings its State-specific knowledge and information to bear (e.g., results of State licensure surveys), and recommends a final selection to CMS.

Health care deficiencies identified during the most recent three standard survey cycles and during the last three years of complaint surveys represent the most significant factor in the identification of which facilities merit close attention in the SFF initiative. The more deficiencies, and the more serious or widespread those deficiencies, the higher the SFF deficiency score. A high SFF deficiency score indicates more serious quality of care problems compared to other facilities in the state. Each identified deficiency is evaluated according to two dimensions:

- (a) The scope of the deficiency (such as whether the deficiency was isolated to one person or was widespread throughout the nursing home), and;
- (b) The severity of the deficiency (such as whether an individual suffered injury, harm, impairment, or death).

When a serious deficiency has been identified, CMS requires that a revisit be conducted to verify that the facility has been restored to substantial compliance with CMS quality of care and safety requirements. Facilities that require more than one revisit before being able to demonstrate substantial compliance have generally failed to make systemic changes in quality of care and quality of life and/or failed to monitor and re-evaluate care, treatment and services via the quality assessment and assurance process.

For each provider, the deficiency score and revisit score are summed to create a total score for each of the three periods. In calculating the SFF score, more recent scores are weighted more heavily than results from earlier surveys. Based on the deficiencies and weighting of those deficiencies, scores for each nursing home within each State are calculated and provided to each State by CMS. States are instructed to consider the 15 nursing homes with the highest SFF scores for final selection. States and CMS Regional Offices work together to select the SFF nursing home. This document constantly changes as survey outcomes change.

Bruce said that each State reviews the SFF candidate list, brings its State-specific knowledge and information to bear (e.g., results of State licensure surveys), and recommends a final selection to CMS. CMS accepts the State recommendations in almost all cases, but reserves the right to have a different selection made in unusual circumstances.

#### Comments from the North Dakota Long Term Care Association

Bev Herman presented the committee members with a booklet titled, "2009 Long Term Care in North Dakota", which provides information about the long term care profession. With workforce being the LTC Association's top priority, they address demographic changes and the challenges of caring for aging North Dakotans.

Representative Kreidt talked about the .80 cent wage increase provided by the last legislative session. Since that increase, there has been only one regional meeting. The Fargo region finds the increase has been very helpful and their staffing is way up. He said it will be interesting to see what happens in the other five regions related to staffing.

Bev mentioned that Curt Stoner's term as Chairman of the Board for the ND Long Term Care Association is up the end of December, 2009. Rosanne Schmidt will replace Curt as Chairman in 2010.

Bev said the ND LTC Association is working on their five year strategic plan. Recruitment and retention of staff are the key areas of concern. The association is working a lot with career information, education, and training for the younger individuals in the state. Shelly Peterson has been working with the Department of Commerce in obtaining a 2.7 million dollar grant which would allow certified nurse aide training for all facilities. The facilities would have to have a career type ladder in place. A position will be open in the Association to help with this grant.

Bev Herman stated the Association continues to work with the Health Department on the survey process, and developing a positive relationship. The Association will begin working with the Health Department on the Quality of Care Series for 2010. They also continue to recruit new members, and actively market long term care. Bev said they have filled an emergency preparedness position through a grant. This staff member is Kris Magstadt, Director of Emergency Preparedness. She will do fit testing in all the regions.

#### CMS Update – Fiscal Year 2010 Budget

Darleen Bartz stated that the funding has an increase of 7.1 percent from last year, however some other states have received up to a 15 percent increase. This is based on a tier system, and North Dakota is in Tier 5. We have done well as far as hiring new staff, and currently we just have one vacancy. The long term care workload has remained about the same. Long term care is considered Tier 1, so you complete 100%. There is a twelve month average for these surveys. The workload is increasing in the area of ambulatory surgical centers. There will be eight surveys this year as compared to two last year. Darleen stated that infection control oversight will increase also.

Darleen said there will be revisit fees charged again, so this will need to go back to the legislature for approval. In 2012 and 2013 we will begin to charge user fees to participate in the program. These fees would secure funding for the survey process. Regarding State cost share, we are looking at the following: (1) Increase licensure fees; (2) Decrease our regulation in State licensure; and (3) Pursue additional general fund dollars from the legislature to support this process. Dave Remillard asked Darleen if she knew what the cost of a survey is. Darleen said she is working through that now in the budget process. Dave said the problem he can see happening from a legislative perspective is this is just a piece of the iceberg. Darleen stated this is not limited to long term care, but long term care will be impacted the most. This is all a shift in the philosophy, and these proposed changes would occur in

2011. Many different programs will be looked at besides long term care. She said CMS is modeling this after the CLIA Program, which has been very effective.

### CMS Update – Survey and Certification Letters

Joan Coleman said the survey and certification letters (S & C's) are directives from CMS to the state agencies, which require training for the survey staff in the Division of Health Facilities. These letters talk about Appendix P and Appendix PP. Appendix P is the federal survey protocol for long term care, and Appendix PP is the federal regulations and guidance that tell us the intent and procedures of the regulations. All survey and certification letters have an effective date. Joan provided a brief review of the following survey and certification letters:

- Ref: S&C-09-11 dated November 7, 2008. Subject: Release of Report: “Freedom from Unnecessary Physical Restraints: Two Decades of National Progress in Nursing Home Care”
  - This report evaluates the efforts to reduce the use of physical restraints after Congressional Passage of the 1987 Nursing Home Reform Act.
  - Because of the hard work of practitioners, providers, advocates, and government agencies, the percentage of nursing home residents physically restrained daily substantially declined from 21.1 percent in 1991 to less than 5.0 percent in 2007.

Darleen Bartz commented that we are seeing a nudge upward in the use of chemical restraints.

- Ref: S&C-09-20 dated January 9, 2009. Subject: Survey and Certification Issues Related to Liability Notices and Beneficiary Appeal Rights in Nursing Homes.
  - This memorandum reviews a Skilled Nursing Facility (SNF) provider's obligation to issue Medicare beneficiary liability notices, a Medicare beneficiary's rights related to standard claim and expedited appeals; and the surveyor's responsibility to determine compliance with Medicare notice and billing requirements for determinations of non-coverage.
  - The SNF provider must inform the beneficiary of potential liability for payment for non-covered services when limitation of liability applies.
  - The SNF must provide a written notice to the Medicare beneficiary explaining his/her right to file an expedited appeal upon termination of all Medicare covered services.
  - Appendix P of the SOM Survey Protocol for Long Term Care Facilities, Part VII will be deleted. The information in this memo will be moved to Sub-Task 5C and a new section of Liability Notices and Beneficiary Appeal Rights will be created.
  - This memo does not apply to beneficiaries with Medicare Advantage.

Joan stated that our office has done numerous training, plus CMS has done mandatory web-based training also. Surveyors are required to look at the notices.

- Ref: S&C-09-22 dated January 23, 2009. Subject: Nursing Homes – Issuance of Revised Quality of Care Guidance at F309, including Pain Management as Part of Appendix PP, State Operations Manual, Additional Minor Changes Made to Appendices P and PP as Described Below.
  - Revised guidance for long term care surveyors at F309, Quality of Care, including a new general investigative protocol and new pain management guidance and investigative protocol will be effective March 31, 2009.
  - The advance copy of this guidance and training materials are to be used to train all surveyors who survey nursing homes by the implementation date.
  - Removed hospice and dialysis survey protocol language from Appendix P and inserted into F309.
  - Removed weight loss investigative protocol from Appendix P due to the June 2008 issuance of F325 investigative protocol.
  - Deleted guidance requiring paper copy storage of Minimum Data Set (MDS) in homes with electronic records at Tag F286, 483.20(d), Use.
  - Removed demand billing survey process at Appendix P, Part VII and inserted new procedure at Task 5C.

Joan commented that pain management has always been a major focus for CMS.

- Ref: S&C-09-31 dated April 10, 2009. Subject: Nursing Homes – Issuance of Revisions to Interpretive Guidance at Several Tags, as Part of Appendix PP, State Operations Manual (SOM), and Training Materials.
  - Revisions have been made to Guidance to Surveyors at several Tags in Appendix PP of SOM concerning Quality of Life Environment.
  - Tag F255 (closets) is deleted and regulatory language and Guidance moved to F461.
  - A training document with speaker notes for Centers for Medicare & Medicaid Services (CMS) Regional Offices (Ros) and State Survey Agencies (SAs) to use to train surveyors in this revision to the SOM is included in this memorandum.
  - Power point slides will be issued to ROs and SAs under a separate communication.
- Ref: S&C-09-36 dated May 6, 2009. Subject: H1N1 Flu (Swine-Origin Influenza A) – State Survey Agency Guidance and Survey/Affected Provider Tracking Tools.
  - Situation: Human cases of H1N1 (swine-origin influenza A) virus infection have been identified in multiple States across the nation, as well as internationally. This is a rapidly evolving situation, but at the current time, the Centers for Disease Control and Prevention (CDC) believe this virus has the same properties in terms of spread as seasonal flu viruses. With seasonal flu, studies have shown that people may be contagious from one day before they develop symptoms to up to 7 days after they get sick.
  - Surveyor Guidance and Tracking Tools: To assist surveyors to observe signs of the H1N1 flu virus infection, and proper facility etiquette, a guidance document has been developed in collaboration with CDC. To assist in reporting any impact to State survey activities and

providers that have been affected by the H1N1 virus infection to the Centers for Medicare and Medicaid Services (CMS) Regional Office, a tracking tool has also been developed.

- Ref: S&C-09-38 dated May 15, 2009. Subject: One-Time Cash Benefit to Nursing Home Residents.
  - One-time Cash Benefit: The American Recovery and Reinvestment Act of 2009 (Recovery Act) provides for a one-time cash benefit of \$250 to certain eligible individuals who receive a Social Security benefit, Railroad Retirement pension, Veterans Administration disability pension, and Supplemental Security Income (SSE).
  - Effect on Nursing Home Residents: Many nursing home residents will be eligible for the one-time cash benefit.
  - Purpose of Cash: The money is for the resident's personal use and not to pay the facility for cost of care.
  - Expectation: Facilities that receive the money directly on behalf of the residents must set the money aside in the resident's personal needs account.
  - Survey Issues: Surveyors should be mindful of these payments and investigate any complaints regarding the protection, management, and access of resident personal funds under the appropriate F tags (F158-F162 and F224).
  
- Ref: S&C-09-39 dated May 29, 2009. Subject: Food Procurement at 42 CFR 483.35(i)(1)(2), Tag F371, and Self Determination and Participation at 42 CFR 483.15, Tag F242.
  - The language at 42 CFR 483.35(i), Tag F371 "Procure food from sources approved or considered satisfactory by Federal, State or local authorities" is intended solely for the foods procured by the facility. A revision has been made to the interpretive guidelines at F371 to further clarify this intent.
  - Food accepted by residents from visitors, family, friends, or other guests are not subject to the regulatory requirements at F371.
  - Residents have the right to choose to accept food from visitors, family, friends, or other guests according to their rights to make choices at 483.15, F242, Self Determination and Participation.
  
- Ref: S&C-09-54 dated August 14, 2009. Subject: Nursing Homes – Issuance of Revisions to Interpretive Guidance at F Tag 441, as Part of Appendix PP, State Operations Manual (SOM), and Training Materials.
  - Revisions have been made to Guidance to Surveyors at F Tag 441 in Appendix PP of SOM concerning Infection Control.
  - Tags F442, 443, 444, and 445 are deleted and the regulatory language and guidance moved to F441.
  - A training document with speaker notes for Centers for Medicare & Medicaid Services (CMS) Regional Offices (ROs) and State Survey Agencies (SAs) to use to train surveyors on this revision to F tag 441 in the SOM is included in this memorandum.

- Power point slides will be issued to ROs and SAs under a separate communication.

Barb Groutt from the Quality Improvement Organization said that CMS came through with additional resources to work with more nursing homes (mostly rural nursing homes). They are working with thirteen facilities which include special focus facilities. She said they are working with the special focus facilities because they have significant survey issues. They try and help them improve their performance across the board. She said that other than the special focus facilities, the other facilities are all about pressure ulcers and physical restraints that have been assigned by CMS. The facility has an opportunity to accept or decline the assistance. The QIO started working with nursing homes when Nursing Home Compare just came out. The QIO has really learned a new approach when working with the nursing homes, and they have found a much better way of helping them.

Darleen Bartz said that on November 4, 2009, CMS is inviting stakeholders for a collaborative meeting. This meeting will be held in Denver and will include many different association heads across the different branches of health care.

#### Next Meeting and Suggestions for Future Agenda Items

The next meeting of the Long Term Care Advisory Committee was set for Friday, December 11, 2009 from 10:00 a.m. to 3:00 p.m. in Room 212 of the State Health Department. Agenda items will include:

#### Standing Reports:

- Division of Health Facilities
- ND Long Term Care Association
- Ombudsman, Department of Human Services
- Legislative Update

#### Suggestions for future agenda items included:

- HCBS Services – Karen Tescher
- Children’s Hospice Waiver – Karen Tescher
- Data – QIS Certification
- Assisted Living Workgroup – Karen Tescher
- Fitness to Serve Workgroup
- Cost Share Discussion

The meeting adjourned at 2:45 p.m.