

CENTERS FOR MEDICARE & MEDICAID SERVICES (“CMS”) ACTS TO IMPROVE DEMENTIA CARE IN NURSING HOMES

In November 2011, the Office of Inspector General (“OIG”) initiated a study regarding the use of atypical antipsychotic drugs in nursing homes. The findings from the study indicated these types of drugs were being overprescribed to high-risk nursing home residents suffering from dementia; were being prescribed for uses not approved by the FDA; and were being inappropriately billed to Medicare. In an effort to reverse these trends, CMS has partnered with the Partnership to Improve Dementia Care in Nursing Homes, as well as other similar organizations, to protect and optimize the quality of life for this select nursing home population.

At the forefront of CMS's initiative are mandatory surveyor trainings and updates to the *State Operations Manual* Appendix P - F-309: *Quality of Care*; and Appendix PP - F-329: *Unnecessary Drugs*. More specifically, Appendix P changes the sampling process to ensure that an adequate number of residents with dementia, who are receiving antipsychotic medications, are included within the sample. Updates to Appendix PP are: (1) a new section of interpretive guidelines at F309 pertaining to the review of care and services for a resident with dementia; (2) revisions to the antipsychotic medication section of F-329; and (3) a new severity example at the end of the interpretive guidelines for F-329 regarding unnecessary drugs.

Essentially, CMS is providing the tools for surveyors to identify and cite providers (both in nursing homes and hospitals) that are overusing and/or inappropriately using antipsychotic medications for unintended purposes (i.e., indiscriminately controlling or limiting the behavior of individuals with dementia or for the facility's convenience). Oftentimes, the excessive use of antipsychotic drugs exposes residents with dementia to increased falls, cerebrovascular adverse events and fractures, as well as significantly diminishes their quality of life. It is CMS's goal to reduce and/or eliminate these harmful events.

Since CMS has mandated these changes be effective immediately, providers should make compliance with the new guidelines a priority. Providers are encouraged to develop and implement plans of care incorporating the fundamental principles of dementia care: (1) a detailed assessment of an individual's needs and preferences; (2) an adequate staff (number and expertise) to support and care for an individual's special needs; (3) ongoing evaluations of an individual's behavior; (4) monitoring the plan of care's effectiveness or lack thereof; and (5) limiting the use of antipsychotic medications primarily to ensuring the safety and well-being of the individual as well as other residents.

The Memorandum can be accessed at: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-13-35.pdf>

If you have questions or concerns regarding the foregoing or would like additional information, please contact:

- Todd Selby at 317.977.1440 or tselby@hallrender.com;
- Brian Jent at 317.977.1402 or bjent@hallrender.com;
- David Bufford at 502.568.9368 or dbufford@hallrender.com; or
- Your regular Hall Render attorney.