
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:

ICF/MR Survey Team
701 Barbour Drive
2718 Mail Service Center
Raleigh, North Carolina 27699-2718

Comments from the Chief

I would like to take this opportunity to welcome you to our Newsletter! As a regulatory agency, one of our goals is to assist providers in understanding and achieving compliance, which we hope will result in better outcomes for clients receiving services. We hope you enjoy the information provided in our newsletter and any topics or suggestions you may have for future issues is greatly appreciated.

Jeff Horton, Chief

DFS Mental Health Licensure and Certification Section.

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

January 1 thru March 31, 2002

77 recertification surveys and 17 complaint surveys were conducted this quarter with a total of 367 W tags cited. Specifically they included:

Standard Level citations:
358

Conditions cited:

W 122 Client Protections: 8
W 195 Active Treatment: 1

Additionally, conditions of participation resulted in 2 Immediate Jeopardies being cited and penalties being assessed.

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

**ICF/MR Surveys for North Carolina
Numbers for the 2nd Quarter**

April 1 thru June 30, 2002

87 recertification surveys and 28 complaint surveys were conducted this quarter with a total of 385 W tags cited. Specifically they included:

Standard Level citations:
372

Conditions cited:

W 122 Client Protections: 6
W 195 Active Treatment: 4
W 266 Client Behavior and Facility Practices: 1
W 318 Health Care: 2

Additionally, conditions of participation resulted in 6 Immediate Jeopardies being cited and penalties being assessed.

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

The following 10 deficiencies were cited most often for the quarter listed:

<i>1st Quarter</i>			<i>2nd Quarter</i>		
<i>W-249</i>	<i>59</i>	<i>times</i>	<i>W-249</i>	<i>63</i>	<i>times</i>
<i>W-247</i>	<i>17</i>	<i>times</i>	<i>W-288</i>	<i>22</i>	<i>times</i>
<i>W-288</i>	<i>16</i>	<i>times</i>	<i>W-154</i>	<i>19</i>	<i>times</i>
<i>W-436</i>	<i>15</i>	<i>times</i>	<i>W-369</i>	<i>19</i>	<i>times</i>
<i>W-154</i>	<i>14</i>	<i>times</i>	<i>W-247</i>	<i>15</i>	<i>times</i>
<i>W-227</i>	<i>12</i>	<i>times</i>	<i>W-149</i>	<i>13</i>	<i>times</i>
<i>W-257</i>	<i>12</i>	<i>times</i>	<i>W-436</i>	<i>11</i>	<i>times</i>
<i>W-153</i>	<i>11</i>	<i>times</i>	<i>W-227</i>	<i>10</i>	<i>times</i>
<i>W-242</i>	<i>10</i>	<i>times</i>	<i>W-257</i>	<i>10</i>	<i>times</i>
<i>W-149</i>	<i>10</i>	<i>times</i>	<i>W-242</i>	<i>9</i>	<i>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 2002:

Chandler Road Group Home, Durham, N.C.

Marie G. Smith Group Home, Albemarle, N.C.

23rd Street Home, Newton, N.C.

Lakewood Group Home, Wilkesboro, N.C.

McKeel Loop Group Home, Wilson, N.C.

Airport Road Group Home, Goldsboro, N.C.

***Horizon's Residential Care Center-The Arches,
Winston-Salem, N.C.***

Rones Chapel Road Group Home, Mount Olive, 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

WHAT'S NEW - Intermediate Care Facilities for Persons with Mental Retardation (ICF/MR) Federal Monitoring and Oversight Contract (November 7, 2000) The Health Care Financing Administration (HCFA) has awarded a 3.5 million dollar contract to The Council on Quality and Leadership in Supports for People with Disabilities (The Council) of Towson, Maryland to conduct Federal comparative (look-behind) surveys, complaint investigations and crisis assignments to help ensure the health, safety and welfare of individuals living in ICFs/MR.

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/>

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>

APPENDIX Q

GUIDELINES FOR DETERMINING IMMEDIATE JEOPARDY

From time to time surveyors find situations that are so severe that a client's health and safety may be at risk. CMS (formerly HCFA) provides guidelines to help surveyors recognize these situations and direct how to address them to a facility. It then becomes the responsibility of the facility to correct the situation and protect the client(s) at the earliest possible moment. These guidelines are included in the State Operations Manual (SOM) as provided by CMS and constitute **Appendix Q** or **Guidelines for Determining Immediate Jeopardy**. The following excerpts from the Appendix are provided to help facilities better understand the task set forth for surveyors and their direction in addressing these issues while in your facility. Information in *italics* is provided by the team for direction in how the Appendix proceeds. All other information is quoted directly from Appendix Q.

Changes made to Appendix Q, Guidelines for Determining Immediate Jeopardy, reflect HCFA's (CMS) concern that crisis situations in which the health and safety of individuals are at risk, are accurately identified, thoroughly investigated and resolved as quickly as possible. In the interest of consistency, the new Guidelines standardize the definitions of Immediate Jeopardy, abuse and neglect across all certified Medicare/Medicaid entities (excluding CLIA), and describe the process surveyors use in making a determination of Immediate Jeopardy.

The Appendix provides the following definitions that apply to all certified Medicare and Medicaid entities per the Code of Federal Regulations (CFR):

Immediate Jeopardy: "A situation in which the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident." (See 42 CFR Part 489.3.)

Abuse: "The willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting harm, pain, or mental anguish." (See 42 CFR Part 488.301.)

Neglect: "Failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness." (See 42 CFR Part 488.301.)

Appendix Q provides specific advice to guide surveyors to carry out this task:

Triggers alert surveyors that some circumstances may have the potential to be identified as Immediate Jeopardy situations and therefore require further investigation before any determination is made.

In the interest of reducing or eliminating abuse and neglect to all beneficiaries, the Guidelines caution surveyors that when abuse or neglect has been identified, the circumstances must be thoroughly evaluated to determine if Immediate Jeopardy exists.

The Guidelines also clarify that actual harm, as well as the potential for harm, to one or to more than one individual may constitute Immediate Jeopardy.

Immediate Jeopardy is interpreted as a crisis situation in which the health and safety of individual(s) are at risk (see SOM §3010). These guidelines are for use in determining if circumstances pose an

Immediate Jeopardy to an individual's health and safety. These guidelines will assist Federal and State Survey and Certification personnel and Complaint Investigators in recognizing situations that may cause or permit Immediate Jeopardy.

These guidelines apply to all certified Medicare/Medicaid entities (excluding CLIA) and to all types of surveys and investigations: certifications, recertifications, revisits, and complaint investigations.

The primary goals of these Immediate Jeopardy guidelines are to identify and to prevent serious injury, harm, impairment, or death.

The guidelines defining the Principles that guide the surveyor include:

The identification and removal of Immediate Jeopardy, either psychological or physical, are essential to prevent serious harm, injury, impairment, or death for individuals.

Only ONE INDIVIDUAL needs to be at risk. Identification of Immediate Jeopardy for one individual will prevent risk to other individuals in similar situations.

Serious harm, injury, impairment, or death does NOT have to occur before considering Immediate Jeopardy. The high potential for these outcomes to occur in the very near future also constitutes Immediate Jeopardy.

Individuals must not be subjected to abuse by anyone including, but not limited to, entity staff, consultants or volunteers, family members or visitors.

Serious harm can result from both abuse and neglect.

Psychological harm is as serious as physical harm.

When a surveyor has established through investigation that an individual receiving care and services from the entity was harmed by a cognitively impaired individual due to the entity's failure to provide care and services to avoid physical harm, mental anguish, or mental illness, this should be considered neglect.

Any time a team cites abuse or neglect, Immediate Jeopardy should be considered.

Once the survey team has determined that the harm being investigated meets the definition of Immediate Jeopardy the team is directed to consider specific points about entity compliance, specifically:

The entity either created a situation or allowed a situation to continue which resulted in serious harm or a potential for serious harm, injury, impairment or death to individuals *and*,

The entity had an opportunity to implement corrective or preventive measures.

After recognizing Immediate Jeopardy and completing the investigation, the team will then choose the specific Federal regulation(s) to address the deficient practice. Although a specific Federal regulation may not be found for each situation, all Medicare/Medicaid entities have a

responsibility to provide quality care. The principles of Immediate Jeopardy apply to all certified entities and need to be followed for all individuals receiving care and services in those entities. The team should determine which Federal regulation(s) to document the deficient practices(s).

Appendix Q also provides examples of various “triggers” that can point to Immediate Jeopardy for the surveyor to consider. These are only examples and reflect all Medicare and Medicaid clients including those in ICF/MR facilities. Specifically, they are:

NOTE: Harm does NOT have to occur before considering Immediate Jeopardy. Consider both potential and actual harm when reviewing the triggers in the table.

- A. Failure to protect from abuse ...**
- B. Failure to prevent neglect ...**
- C. Failure to protect from psychological harm ...**
- D. Failure to protect from undue adverse medication consequences and/or failure to provide medications as prescribed ...**
- E. Failure to provide adequate nutrition and hydration to support and maintain health ...**
- F. Failure to protect from widespread nosocomial [*hospital acquired*] infections; e.g., failure to practice standard precautions, failure to maintain sterile techniques during invasive procedures and/or failure to identify and treat nosocomial infections ...**
- G. Failure to correctly identify individuals ...**
- H. Failure to safely administer blood products and safely monitor organ transplantation ...**
- I. Failure to provide safety from fire, smoke and environment hazards and/or failure to educate staff in handling emergency situations ...**
- J. Failure to provide initial medical screening, stabilization of emergency medical conditions and safe transfer for individuals and women in active labor seeking emergency treatment (Emergency Medical Treatment and Active Labor Act) ...**

Each situation is different and Appendix Q is designed to give the team on site the guidance necessary to effect the protection of the client population your facility serves through the appropriate application of the various regulations that govern your contractual obligations for ICF/MR facilities. We invite your questions regarding this topic that may be directed to the links and/or addresses provided on page one.

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