LTCCC
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LONG TERM CARE (LTC) E- NEWSLETTER – March 2013: Volume 11, Number 2

Welcome to the LTC E-NEWSLETTER, a monthly electronic newsletter of the Long Term Care Community Coalition. Note to Readers: To go directly to an article, click on its page number in the Table of Contents. Once you are at the article, click on any underlined text for a link to more information or to send a message in "Spotlight on Advocacy."

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U.S. Inspector General Finds That Nursing Homes Often Fail to Meet Care Planning & Discharge Planning Requirements

The Office of Inspector General of the U.S. Department of Health and Human Services has released a report detailing its review of a sampling of nursing home medical records from 2009 to assess how well nursing homes "developed care plans that met Medicare requirements, provided services in accordance with care plans, and planned for beneficiaries' discharges as required. Reviewers also identified examples of poor quality care."

They found that 37% of the time nursing homes did not develop care plans that met requirements or did not provide services in accordance with care plans." In addition, they found that nursing homes "did not meet discharge planning requirements" 31% of the time.

According to the report's Executive Summary,

> Medicare paid approximately $5.1 billion for stays in which SNFs did not meet these quality-of-care requirements. Additionally, reviewers found examples of poor quality care related to wound care, medication management, and therapy. These findings raise concerns about what Medicare is paying for. They also demonstrate that SNF oversight needs to be strengthened to ensure that SNFs perform appropriate care planning and discharge planning.

[http://1.usa.gov/VaztQm]

New Report on Implementation of Nursing Home Provisions of Affordable Care Act

The Kaiser Commission on Medicaid and the Uninsured has issued a report that prevents an overview of the provisions of the 2010 federal Affordable Care Act (so-called "Obamacare") and assesses progress to date in implementing these provisions. The report was written by two experts on nursing home care: Janet Wells, a long term care consultant (and former Director of Policy at the National Consumer Voice for Quality Long-Term Care), and Charlene Harrington, of the University of California, San Francisco. Following is an excerpt from the abstract of the report on the Kaiser Commission's website.

> The Affordable Care Act (ACA) is the first comprehensive legislation since the Nursing Home Reform Act, part of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), to expand quality of care-related requirements for nursing homes that participate in Medicare and Medicaid and improve federal and state oversight and enforcement. Despite the 1987 reforms, beginning in 1997, the Government Accountability Office issued more than 20 reports documenting serious quality of care problems in nursing homes and inadequate enforcement of federal regulations to protect residents' health, safety, and welfare. To help address these quality problems, the ACA incorporates the Nursing Home Transparency and Improvement Act of 2009, introduced because complex ownership, management, and financing structures were inhibiting regulators'

> ability to hold providers accountable for compliance with federal requirements. The ACA also incorporates the Elder Justice Act and the Patient Safety and Abuse Prevention Act, which include provisions to protect long-term care recipients from abuse and other crimes.

[http://www.kff.org/medicare/8406.cfm]

Departments of Justice and Health and Human Services Announce Record-Breaking Recoveries Resulting From Joint Efforts to Combat Health Care Fraud

The U.S. Department of Health and Human Services (DHHS) and the Department of Justice (DOJ) announced that they had recovered a record $4.2 billion in 2012 as a result of health care fraud and abuse investigations. According to the report released jointly by the agencies, " for every dollar spent on health care-related fraud and abuse investigations in the last three years, the government recovered $7.90."

According to the news release, issued on February 11,

> [t]he new authorities under the Affordable Care Act granted to HHS and the Centers for Medicare & Medicaid Services (CMS) were instrumental in clamping down on fraudulent activity in health care. In FY 2012, CMS began the process of screening all 1.5 million Medicare-enrolled providers through the new Automated Provider Screening system that quickly identifies ineligible and potentially fraudulent providers and suppliers prior to enrollment or revalidation to verify the data. As a result, nearly 150,000 ineligible providers have already been eliminated from Medicare's billing system.
>
> CMS also established the Command Center to improve health care-related fraud detection and investigation, drive innovation and help reduce fraud and improper payments in Medicare and Medicaid.
>
> From May 2011 through the end of 2012, more than 400,000 providers were subject to the new screening requirements and nearly 150,000 lost the ability to bill the Medicare program due to the Affordable Care Act requirements and other proactive initiatives.
>
> The Department of Justice and HHS also continued their successes in civil health care fraud enforcement during FY 2012. The Justice Department's Civil Division Fraud Section, with their colleagues in U.S. Attorneys' offices throughout the country, obtained settlements and

judgments of more than $3 billion in FY 2012 under the False Claims Act (FCA). These matters included unlawful pricing by pharmaceutical manufacturers, illegal marketing of medical devices and pharmaceutical products for uses not approved by the Food and Drug Administration, Medicare fraud by hospitals and other institutional providers, and violations of laws against self-referrals and kickbacks. This marked the third year in a row that more than $2 billion has been recovered in FCA health care matters. Additionally, the Civil Division's Consumer Protection Branch, working with U.S. Attorneys' offices, obtained nearly $1.5 billion in fines and forfeitures, and obtained 14 convictions in matters pursued under the Federal Food, Drug and Cosmetic Act.

The HCFAC annual report is available at https://oig.hhs.gov/reports-and-publications/hcfac/index.asph. For more information on the joint DOJ-HHS Strike Force activities, visit: www.StopMedicareFraud.gov/.

For more information on the fraud prevention accomplishments under the Affordable Care Act visit: www.healthcare.gov/news/factsheets/2012/02/medicare-fraud02142012a.html.

[http://www.hhs.gov/news/press/2013pres/02/20130211a.html]

Spotlight on Advocacy: Speak Out to Support Access to Justice for Victims of Nursing Home Abuse & Neglect

It is well known that serious problems persist in nursing homes in NY and nationwide. State and federal oversight mechanisms are often insufficient to ensure that every resident receives the care he or she needs, as both state and national laws require. Thus, when the government fails to uphold minimum standards, it is crucial that residents and their families have a meaningful right to hold providers accountable themselves.

NYS Assembly Bill #2687 would provide that a nursing home patient's right to sue for injuries can be exercised by the patient's legal representative or estate. The bill also makes it clear that the nursing home does not escape liability for its wrongs just because the patient dies or is unable to initiate a suit on his or her own behalf.

Please speak out now in support of NYS Assembly Bill #2687 and urge your representatives in the NYS Senate to pass a companion bill!

Click here or go to http://www.capwiz.com/nhccnys/issues/alert/?alertid=62463141.

We're on the Web!

www.ltccc.org: Our main website, with access to all of our issues, policy briefs and research.

www.assisted-living411.org: For information on assisted living, including consumer issues and policies.

www.nursinghome411.org: For information on developments in nursing home care, regulation and policy issues.

LTCCC Links of Interest

View the latest enforcement actions against nursing homes in New York State.

Read the latest edition of LTCCC's quarterly newsletter, *The Monitor*.

LTCCC's dedicated webpage on antipsychotic drugs and dementia care: nursinghome411.org/?articleid=10042.

Long term care information booklet in Chinese and English for Chinese consumers: What You Need to Know about Long Term Care.

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