

Administrator Alert

Policy updates & rule clarifications for Nursing Facilities

Office of Licensing and Regulatory Oversight

October 7, 2013

Temporary Rules Effective October 8, 2013 for Nursing Facility Closure.

Dear Administrator:

The purpose of this Alert is to provide notification of Temporary Oregon Administrative Rules (OARs) that are effective 10/08/13 for NF Closure.

Background:

CMS issued final rule, effective April 18, 2013, that implements Section 6113 of the Patient Protection and Affordable Care Act (PPACA).

42 CFR 483.12(a)(8) – Admission Transfer and Discharge. The facility administrator must provide written notification of the impending closure and a resident transfer plan to residents, resident representatives, the Long-Term Care Ombudsman (LTCO) and to the State.

42 CFR 483.75(r) – Administration. Requires the administrator to give written notification, at least 60 days prior to closure, to residents, resident representatives, the Long-Term Care Ombudsman (LTCO) and to the State and prohibits admission of new residents once the 60-day notice has been issued. The administrator must include in the written notice a plan approved by the state for the transfer and adequate relocation of residents, including assurances that residents will be transferred to the most appropriate facility or other setting in terms of quality, services and location and taking into consideration the needs, choice and best interests of each resident. CMS guidance includes the expectation that facility closure plans will clearly identify the steps to be taken by the facility and the individual responsible for ensuring successful implementation.

42 CFR 483.75(s) – Administration. Requires facilities to have policies and procedures specifying that the administrator's duties include providing the appropriate notices.

42 CFR 488.446 – Administrator Sanctions: Long-Term Care Facility Closures. In accordance with PPACA, civil monetary penalties (CMP) will be imposed on the individual administrator that fails to comply with requirements at 483.75(r) (cited above).



Administrator Alert

Policy updates & rule clarifications for Nursing Facilities

Office of Licensing and Regulatory Oversight

Temporary Oregon Administrative Rules (see additional documents attached to this Alert) become effective October, 8, 2013 for Nursing Facilities, implementing the federal regulations listed above. Rule summary:

OAR 411-085-0025 – Change of Ownership or Operator and Closure.

- Requires 90-day notice to the Department (NF Licensing) of impending facility closure. The facility will develop a Resident Transition Plan and a Facility Closure Plan that the Department will review and approve.
- Requires 60-day notice of facility closure to residents, resident representatives and the Long-Term Care Ombudsman (LTCO). No new admissions upon issue of the 60-day notice.

OAR 411-085-0210 – Facility Policies. Requires a facility policy assuring that the administrator's duties include fulfilling the rule requirements for NF closure.

OAR 411-088-0070 – Notice Requirements. Requires that, in the case of facility closure, written notice is provided to the resident, resident representatives and LTCO as specified in 411-0085-0025.

Documents posted with this Alert:

- NF Closure Requirements – Discusses new Temporary Rule requirements and includes all OARs relevant to closure.
- Transition Checklist – sample communication tool.
- Temporary Rule Notice for Filing; includes Temporary Rules at 411-085-0025, 411-085-0210 and 411-088-0070
- *Survey and Certification Memo 13-50-NH. Revisions to Tags F203 and F204 and Issuance of New Tags F523 and F524.*

F203 483.12(a)(5) Timing of the notice

F204 483.12(a)(7) Orientation for Transfer or Discharge and 483.12(a)(8)

F523 483.75(r) Facility closure – Administrator

F524 483.75(s) Facility closure

For questions:

Renee Shearer Renee.M.Shearer@state.or.us, (503) 945-5923

Marcia Thompson Marcia.Thompson@state.or.us, (503) 945-6815

