
PROMISING PRACTICES IN STATE SURVEY AGENCIES

Achieving Better Outcomes Using Survey & Certification Enforcement Strategies

Wisconsin

Summary

In 2003, the Bureau of Assisted Living, Division of Quality Assurance (DQA) at the Wisconsin Department of Health and Family Services implemented a process for utilizing directed plans of correction as an enforcement strategy to address serious and repeat violations in assisted living and community-based facilities. This practice was initiated in response to concerns that financial penalties alone were not effective for all facilities in prompting and sustaining compliance. The directed plans of correction expand upon and clarify existing state codes and licensing requirements by prescribing concrete steps for facilities to achieve compliance and improve services. While this practice does not fall under the CMS federal survey and certification regulations, it does provide for improved state enforcement effectiveness and efficiencies in an area where many states find compliance issues are rapidly increasing.

Introduction

This report describes the structure and functioning of Wisconsin's directed plan of correction practice, its impact, and lessons learned that might benefit other agencies considering similar enforcement approaches. The information presented is based on interviews with agency management staff and review of documentation supporting the program.

Background

In addressing rising and increasingly serious complaints in Wisconsin's assisted living and community-based facilities, the DQA found that financial penalties alone were not an effective means of promoting compliance. Poor compliance in these facilities often was found to result from inadequate infrastructure and/or operational systems (e.g., lack of policies/procedures, poorly trained workforce, insufficient staffing), many of which would be only perpetuated by strictly monetary and/or punitive penalties. A key goal of the Wisconsin directed plan of correction program therefore was to move away from strictly punitive enforcement methods to a more constructive approach that encourages facilities to develop and implement durable, effective systems (e.g., policies,

procedures, training, care planning) for improving and sustaining compliance. Although the DQA had the authority to direct plans of correction prior to 2003 – and did so on occasion primarily for straightforward environmental and structural issues – this enforcement method was adapted, expanded, and formalized for issues involving resident care and resident outcomes in 2003.

Intervention

Directed plans of correction expand upon and clarify existing state codes and licensing requirements by prescribing concrete steps toward achieving compliance and improving services. Under the directed plan of correction approach, all completed statements of deficiency (SOD) undergo a supervisory review to determine whether a sanction or other enforcement action may be warranted. Based on this supervisory review, citations that warrant further enforcement review are forwarded to the DQA's Enforcement Specialist, who determines whether a directed plan of correction might help the facility achieve compliance. In preparing the directed plan of correction, the Enforcement Specialist evaluates the SOD, following up with surveyors and regional supervisors as needed, to

determine the necessary remedial measures for inclusion. Such measures may include requirements for a facility to: 1) obtain specific training for staff; 2) hire a consultant to evaluate and develop systems; 3) obtain clinical assessments to address residents' needs, and/or 4) develop care plans to address residents' service needs.

The SODs and directed plans are sent to both the providers and involved stakeholders, some of whom may include the county human service agency, case managers, funding coordinators, ombudsmen, advocates, and other resident representatives. By including stakeholders in the distribution of SODs and directed plans, the DQA encourages and fosters communication and collaboration between the providers and the stakeholders. Stakeholders often get involved in the process by monitoring compliance, assisting with training when appropriate (in the case of ombudsmen), withholding provider funding pending compliance with orders, and/or terminating contracts with providers that fail to attain compliance.

Depending on the care issues involved, compliance with the directed plan is verified through submission of appropriate documentation by the provider and/or a follow-up visit by the survey team.

Of importance to note is that the directed plan of correction does not replace the facility's own written plan of correction. Providers are still required to submit a plan of correction within 30 days of the completed survey; this plan of correction may include the directed plan but must also address the problem from the facility's own operational perspective, taking into consideration its unique resident population, staffing structures, business practices, and other factors.

Although complying with a directed plan of correction typically involves some type of cost to the provider (e.g., provision of training, compensation for a consultant), these costs are re-invested into the facility's operation toward the goal of sustained quality improvement. This is in contrast to a fine whose proceeds go directly to the state, with no direct benefit to the facility.

Implementation

As a first step in implementing the directed plan of correction program, the DQA hired an Enforcement Specialist, who took a lead role in developing, refining, and implementing the program throughout the state. The Enforcement Specialist worked closely with the Bureau of Assisted Living Director to develop written procedures. Over time, feedback received from committees, regional office directors, and survey staff was incorporated to further refine and develop the process.

Implementation of the directed plan of correction program in Wisconsin was cost neutral in that it required no additional resources for implementation outside of the hiring of the Enforcement Specialist, whose position encompasses all enforcement-related issues, not just those pertaining to directed plans of correction.

Impact

Between 2002 (the year prior to implementation of the directed plan of correction program) and 2006, the total number of assisted living and community-based facilities in Wisconsin grew by approximately 16 percent (from 2,284 in 2002 to 2,731 in 2006); however, the number of complaints received during this time decreased by 22 percent (from 916 in 2002 to 718 in 2006). Although the number of sanctions increased 122 percent during this period, the percent of sanctions constituting forfeitures decreased from 64 to 22 percent and the percent of sanctions constituting directed plans of correction increased from 5 to 37 percent. Also, the percentage of surveys with enforcement that were appealed decreased from 18 percent to 10 percent. In addition, when sanctions were stipulated in the appeal process rarely were there any changes to the directed plan of correction. Finally, the number of facilities qualifying for abbreviated surveys during this period increased, reflecting more facilities with good compliance history. Although these trends cannot be unequivocally attributed to the implementation of the directed plan of correction program, agency management staff strongly believe the program

has played a major role in improving care and achieving compliance throughout the state.

Feedback from providers and provider associations regarding the directed plan of correction program has been generally supportive. A favorable and unanticipated benefit of the program is that some provider corporations with more than one facility have indicated that directed plans developed for an individual facility have been implemented in each of their licensed facilities in order to establish uniform compliance practices and avoid repeat violations.

Surveyors also have been supportive of the program. In December 2006, 28 of 29 assisted living facility surveyors participated in a survey to provide feedback about the effectiveness of directed plans of correction. Seventy-six percent of those surveyors indicated that directed plans of correction are an effective enforcement strategy in assisted living settings.

Lessons Learned

Agencies interested in implementing a directed plan of corrections program similar to the one implemented in Wisconsin should begin by reviewing their state's existing statutes to explore whether they have the authority to issue directed

plans of correction. If implementing such a program, it is valuable to explore ways of maximizing the shared interests and responsibilities of stakeholders to support the development of systems and processes in facilities to improve and sustain quality of care.

Agency management staff believe that key factors in the success of the directed plan of correction program are the dedication, persistence, and efficiency of the DQA Enforcement Specialist, the close collaboration of the Enforcement Specialist with various components of the Bureau of Assisted Living, and the support of the Enforcement Specialist by senior DQA management.

Contact Information

For further information regarding the directed plan of correction program at the Bureau of Assisted Living, Division of Quality Assurance at the Wisconsin Department of Health and Family Services, please contact Kevin Coughlin, Bureau Director, by e-mail at CoughKJ@dhfs.state.wi.us or by phone at 920/448-5255; or Lynnette Traas, Enforcement Specialist, by e-mail at TraasLM@dhfs.state.wi.us or by phone at 608/266-8542.

This document is part of an issue brief on effective enforcement practices in State Survey Agencies. The issue brief is one of a series by the Division of Health Care Policy and Research, University of Colorado Health Sciences Center, for the U.S. Centers for Medicare & Medicaid Services (CMS) highlighting promising practices in State Survey Agencies. The entire series is available online at CMS' Web site, <http://www.cms.hhs.gov/SurvCertPromPractProj>. The issue briefs are intended to share information about practices used in State Survey Agencies and are not an endorsement of any practice.