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DATE: June 1, 2001

FROM: Director
Survey and Certification Group
Center for Medicaid and State Operations

SUBJECT: Reporting Requirements: Use of Restraint and Seclusion in Psychiatric Treatment Facilities Providing Inpatient Psychiatric Services to Individuals Under Age 21

TO: Associate Regional Administrators, DMSO
State Survey Agency Directors

The purpose of this memorandum is to notify states and regional offices of the publication of an interim final rule governing the use of seclusion and restraint in Psychiatric Residential Treatment Facilities (PRTFs) that provide inpatient psychiatric services to individuals under age 21 (Psych Under 21). This memo also outlines the interim processes we have put in place to address the immediate reporting requirements, as well as the future implementation steps we intend to take to ensure compliance with the rule.

Background

An interim final rule establishing standards for the use of restraint and seclusion in PRTFs providing Psych Under 21 services was published on January 22, 2001. An amendment and clarification to this rule was published on May 22, 2001 with an immediate effective date. This rule establishes a definition of a PRTF that is not a hospital and that may furnish covered inpatient psychiatric services for individuals under age 21. The rule also establishes a Condition of Participation (CoP) for the use of restraint and seclusion that PRTFs must meet in order to continue to provide the Psych Under 21 benefit. The CoP specifies requirements designed to protect the residents against the improper use of restraints that include, but are not limited to: parental/guardian notification when restraints/seclusion are used; reporting of deaths and serious occurrences; staffing requirements for staff that order the use of restraint and seclusion; requirements for monitoring residents in and immediately after seclusion; etc. The interim final rule published on January 22, 2001 and the interim final rule amendment published May 22, 2001 can be accessed on www.access.gpo.gov under the published date of January 22, 2001 and May 22, 2001. The questions and answers on the interim final rule can be found on HCFA's website at www.hcfa.gov/medicaid/psychq&a.htm. Updated Qs&As reflecting the interim final rule amendment will not be posted until mid-June.

We are developing an implementation plan for enforcing all the provisions of the Psych Under 21 rule. However, the most urgent of the new requirements are: PRTF reporting of deaths and serious occurrences; and the PRTF submission of an attestation. We have devised the following interim procedures to address these urgent administrative requirements until we have completed the comprehensive implementation plan for this regulation.

Reporting

Under this rule, each PRTF is required to report a resident's death, serious injury, and a resident's suicide attempt to the State Medicaid agency and the state-designated Protection and Advocacy system (P&As), unless prohibited by state law. In addition, Section 42 CFR 483.374(c) states: "In addition to the reporting requirements contained in paragraph (b) of this section, facilities must report the death of any resident to the Health Care Financing Administration (HCFA) regional office. (1) Staff must report the death of any resident to the HCFA regional office by no later than close of business the next business day after the resident's death. (2) Staff must document in the resident's record that the death was reported to the HCFA regional office."

Interim Roles and Responsibilities for Reporting

The interim process for reporting deaths will follow a similar process as currently in place for the death reporting process for hospitals, as indicated in a memorandum to ARAs on March 23, 2000. We plan to issue a model letter to the State Medicaid Agency for their transmittal to PRTFs with specific directions as to the content and what and where to send this information. This model letter will be included as an attachment with a separate memorandum directed toward State Survey Agencies.

PRTFs:

- Report to State Medicaid Agency of deaths, serious injuries and attempted suicides.
- Report to the State-designated Protection and Advocacy system of deaths, serious injuries and attempted suicides, unless prohibited by State law.
- Report to HCFA RO the death of any resident no later than the close of business the next business day after the resident's death.
- The report shall include:
 - Name of the deceased resident;
 - Description of the occurrence;
 - Name, street address, and telephone number of the facility; and
 - Any other information the PRTF is able to provide regarding the death/occurrence.
- Document in the resident's record that the death was reported to the HCFA RO.
- Document in the resident's record that any serious occurrence, that of death, serious injury or attempted suicides were reported to the State Medicaid Agency and the State-designated Protection and Advocacy system.

Regions:

- Receive and maintain death report data for PRTFs.
- Use the same contact person for the PRTF as for death reporting in hospitals.
- Send death report data to Central Office. The RO should use the same Restraint/Seclusion Death Report Worksheet used for hospitals for the PRTFs to report to Central Office and should designate it with the acronym "PRTF" on the form.

Central Office:

- Maintain a central log of death report data collected reported by ROs.

Attestation

We will be drafting policies and procedures for PRTF attestation, including the contents, frequency, reporting and maintenance of the attestation statements. By regulation, all PRTFs with a current provider agreement with the Medicaid agency must provide its attestation statement to the State Medicaid Agency by July 21, 2001.

The rule also requires the State Medicaid Agency to sample a percentage of the PRTFs to verify the accuracy of the attestation statements. We will be working with both the State Medicaid Agency and the State Survey Agency in developing this process.

I hope this information was useful. This policy should be shared with all survey and certification staff, surveyors, their managers, the State/RO training coordinators, and the designated mental health RO contact person. Thank you for your cooperation and patience as we take these important steps to strengthen protections to prevent the inappropriate use of restraints and seclusion.

/s/
Steven A. Pelovitz

cc: State Medicaid Directors
NAPAS (Advocacy & Protection)