

EXHIBIT 259

MINIMUM DATA SET AUTOMATION CONTRACT/AGREEMENT APPROVAL RO CHECKLIST

Background: All certified nursing homes are required to encode and transmit MDS records to a repository maintained by the State in accordance with CMS-established record specifications and time frames. Provider costs will be compensated through the Medicare and Medicaid programs according to the rules for such reimbursement effective in each State. It is expected that overall responsibility for fulfilling requirements to operate the State MDS data system will rest with the State survey agency. However, the State survey agency may enter an agreement with the State Medicaid agency, another State component or a private contractor to perform day-to-day operations of the system. Before entering an agreement with a subcontractor, i.e., if the State MDS system is operated by an entity other than the survey agency, the survey agency must receive CMS RO approval. Such agreements must include the following provisions:

1. Meets confidentiality requirements: Federal Privacy Act, 5 U.S.C. Section 522a; HIPAA of 1996; other applicable Federal data acts; Section 1902 (a)(7) of the Social Security Act; applicable State standards; and industry security standards.
2. Gives State survey agency real-time access to the system to fully support all MDS-driven functions which will be required of the survey agency (e.g., quality indicator reporting, survey targeting), or if contractor is performing analysis for State agency details how
3. Complies with need for high capacity, fault-tolerant network connections to ensure reliable support for the State survey agencies, CMS's national database and any other daily operations (e.g., FI Medical Case Review, OIG or DOJ Fraud and Abuse activities), which will be affected by this system. Assures hardware will be properly maintained and upgraded as necessary to meet any future CMS or State survey agency requirements. Assures adequate backup of all data.
4. Covers State survey agency responsibilities for reporting MDS data to a central repository at CMS. Designates responsibilities for edits and "cleanness" of data. Designates responsibilities for generating and communicating facility error reports. Describes what kinds of communication will be established, e.g., a State-specific Internet and/or Intranet web pages, newsletters, their content, and who will produce/maintain/distribute these communications. If there is a separate database, designates who is responsible for operating and maintaining the CMS-provided equipment and who will assure the viability of the CMS database.
5. Covers responsibilities of contractor and/or State for training and support operations: Including at least who will provide facility and MDS software vendor startup training, and ongoing customer/facility support/troubleshooting; provide internal training and daily user support within the State agency; work with

program staff to integrate the MDS system into State survey agency functions; train State survey agency staff on aspects of analytical system (e.g., ASPEN upgrades and performance measure/"quality indicator" linked reports); handle System Operations -- functions associated with transmission logging, error tracking and resolution, system archival and process reporting; designates who is responsible for determining facility transmission schedules

6. Delineates how State will fund the monthly line charges associated with installation, maintenance, and transmission of the MDS data from the facilities to the contractor and between the contractor and State, e.g., built into contract costs or is an outside ongoing cost to the State survey agency..
7. Specifies whether it is the contractor's or the State survey agency's responsibility for systems maintenance for commercial "off-the-shelf" MDS hardware and software components. For example, are these covered under typical umbrella service agreements that the State or contractor may already have in place for maintenance of data processing equipment? If not, what is the process?