



**Center for Clinical Standards and Quality/Survey & Certification Group**

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**Ref: S&C: 15-37-NH**

**DATE:** May 1, 2015

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** Proposed Rule: SNF Medicare FY 2016 Payments, Quality Reporting, Value-Based Purchasing and Staffing Requirements – *Informational Only*

**Memorandum Summary**

**Publication of Medicare Program; Prospective Payment System (PPS) and Consolidated Billing for Skilled Nursing Facilities (SNF) for FY 2016, SNF Value-Based Purchasing Program, SNF Quality Reporting Program, and Staffing Data Collection:** A notice of proposed rule-making regarding the collection of staffing data in long-term care facilities was published on April 20, 2015. The proposed rule would implement the new requirements regarding the submission of staffing data to the Centers for Medicare & Medicaid Services (CMS) based on payroll and other verifiable and auditable data.

A proposed rule “FY 2016 SNF PPS for Staffing Data Collection in Long-Term Care Facilities” was published on April 20, 2015. The document can be found at <http://www.gpo.gov/fdsys/pkg/FR-2015-04-20/pdf/2015-08944.pdf>. The public has until 5 p.m. on June 19, 2015 to comment on the proposed regulatory document.

On April 20, 2015, CMS published a proposed rule [CMS-1622-P] outlining the proposed FY 2016 Medicare payment rates for SNFs. In addition, the proposed rule outlines three measures CMS is proposing to adopt for the FY 2018 SNF Quality Reporting Program. With respect to the SNF Value-Based Purchasing Program, the rule proposes to adopt the Skilled Nursing Facility 30-Day All-Cause Readmission Measure, as the all-cause, all-condition readmission measure. Further, the proposed rule seeks public comment on various SNF Value-Based Purchasing Program policies. The information detailed below in this memorandum pertains specifically to the proposed information in the Staffing Data Collection section of the proposed rule.

**Background**

Section 6106 of the Affordable Care Act of 2010 (Pub. L. 111-148, March 23, 2010) added a new section 1128I to the Act to promote greater accountability for LTC facilities (defined as skilled nursing facilities and nursing facilities pursuant to new subsection 1128I(a) of the Act).

Section 6106 of the Affordable Care Act added an additional subsection 1128I(g) pertaining to the collection of staffing data for LTC facilities. Section 1128I(g) of the Act specifies that, after consulting with state long-term care ombudsman programs, consumer advocacy groups, provider stakeholder groups, employees and their representatives and other parties the Secretary deems appropriate, the Secretary shall require a facility to electronically submit to the Secretary direct care staffing information (including information with respect to agency and contract staff) based on payroll and other verifiable and auditable data in a uniform format (according to specifications established by the Secretary in consultation with such programs, groups, and parties). Such specifications shall require that the information submitted specify the category of work a certified employee performs (such as whether the employee is a registered nurse, licensed practical nurse, licensed vocational nurse, certified nursing assistant, therapist, or other medical personnel), include resident census data and information on resident case mix, be reported on a regular schedule and include information on employee turnover and tenure and on the hours of care provided by each category of certified employee per resident per day. Section 1128I(g) of the Act establishes that the Secretary may require submission of information with respect to specific categories, such as nursing staff, before other categories of certified employees. Finally, section 1128I(g) of the Act requires that information with respect to agency and contract staff be kept separate from information on employee staffing

### **New Proposed Rule**

The new proposed rule would implement the new requirements regarding the submission of staffing data based on payroll and other verifiable and auditable data. Specifically, long-term care facilities would be required to submit to CMS direct care staffing information including: the category of work for each individual that performs direct care (including, but not limited to, whether the individual is a registered nurse, licensed practical nurse, licensed vocational nurse, certified nursing assistant, therapist, or other type of medical personnel specified by CMS); resident and census data; and information on staff turnover and tenure. Long-term care facilities would also be required to specify whether the individual is an employee of the facility, or engaged by the facility under contract or through an agency. Staffing data would be submitted to CMS no less frequently than quarterly.

**Contact:** Questions regarding this memorandum should be addressed to [NHStaffing@cms.hhs.gov](mailto:NHStaffing@cms.hhs.gov).

**Effective Date:** Public comments are due no later than 5 p.m. on June 19, 2015. The information contained in this memorandum should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management