



13 British American Blvd., Suite 2, Latham, New York 12110 Telephone (518) 867-8383 Web www.nyahsa.org

MEMORANDUM

TO: ACF and Assisted Living Members

FROM: Diane Darbyshire, Senior Policy Analyst

DATE: April 25, 2011

SUBJECT: Updates on Various ACF and AL Issues

ROUTE TO: CEOs, Administrators

ABSTRACT: DOH provides NYAHSA with updates and answers to policy questions.

Introduction

The following provides an update on a variety of ongoing issues and answers to policy questions that will be of interest to ACF and assisted living members. This information stems from a recent meeting with DOH. During regular meetings and discussions with DOH, NYAHSA brings forth member concerns, so be sure to let us know if there are issues that you need assistance with or clarification on.

General ACF Issues

Census Report

DOH reports that approximately 38 facilities have yet to start their census reports on the Health Commerce System (HCS). Those facilities have received violations and will be in enforcement if the census is not complete by April 30. **Any members who have not yet done their census report are urged to do so to avoid penalty.** Joan Justice at DOH (518-408-1132) is a resource, should you be having difficulty with the report. If you are having difficulty accessing the HCS, contact DOH's Valerie Ridgeway at 518-408-1624.

Delays in Architectural Reviews and Initiatives

Unexpectedly, DOH's Division of Assisted Living is without an architect. We have been advocating for an expeditious solution as this is holding up the processing of ACF, ALR and ALP applications, and we have proposed some solutions to expedite the process in the interim. The lack of an architect has also stalled the progress of the architectural workgroup developed per the ALR litigation stipulation and order. DOH is aware that several facilities are awaiting

the outcomes or decisions of the workgroup before implementing costly architectural changes. A tentative workgroup meeting is scheduled for mid-May.

EQUAL

DOH plans to distribute EQUAL funds shortly. DOH accepted some late applications, but there were a few facilities that submitted applications quite late and are unlikely to be processed. NYAHSa always lets members know about these opportunities and their due dates via e-mail or our weekly *Intelligence*; be sure to read our communications so you don't miss anything.

EnAbLE

It is expected that the grant awards for the last round of EnAbLE will be announced soon; NYAHSa successfully advocated for the reappropriation of funding for this in the budget process. NYAHSa is still pursuing questions regarding the status of other EnAbLE reappropriations, however, and the status of funding for air conditioning is in question.

Overnight Guests in ACFs

There was significant discussion regarding overnight guests in ACFs. There is an equivalency for overnight guests staying short term in a vacant room. If a guest is visiting on a regular basis (for example, every other weekend), however, the facility should ensure that the visitor is free of communicable disease. It was suggested that a physician statement that the individual is free of communicable disease would address this concern, and facilities could -- if they allow guests -- make note of this in their "house rules."

A waiver is necessary if the guest is visiting and staying in the same room, but again a notice from a physician is strongly recommended if the visitor is routine.

DOH clarified that children under the age of 18 are **not** allowed as overnight guests.

Use of Side Rails and Hospital Beds

DOH clarified that use of a bed rail or hospital bed in an ACF requires a waiver, and certain conditions must be met. For example, there must be a physician order for the specific resident, and the order must state that it is not a form of restraint. The resident must be able to safely use the equipment and be able to transfer independently. There are also specific parameters regarding the rails and beds themselves. DOH will provide us with more details shortly.

Administrative Fees

DOH clarified that a facility may *not* charge a resident on Supplemental Security Income (SSI) an administrative fee to help them pay their monthly bills.

Defibrillators

Facilities may use defibrillators. It is recommended that someone on each shift be trained in the use of them.

Thickened Liquids

Facilities may provide thickened liquids but must have policies and procedures and follow proper protocol.

ALR Issues

ALR Workgroup

DOH plans to convene a workgroup regarding ALR issues next month. NYAHSAs have long advocated for some sort of forum, similar to what was initiated when the assisted living program (ALP) was first developed, to allow DOH and providers to evaluate questions and policy issues that arise as the new program is implemented. We are pleased that DOH has decided to move forward on this initiative and think it will be extremely valuable in improving processes and addressing problems as we gain more experience with the ALR. We are pleased to report that NYAHSAs' Diane Darbyshire and NYAHSAs members Mike Helbringer, president of Bristol Home and Bristol Village; Amy Kennedy, vice president and executive director of Hawthorne Ridge; and Mike Seelig, vice president of Housing/administrator of Cherry Ridge will be on the workgroup.

ALR Applications and Licensure

DOH is reviewing 228 assisted living residence (ALR) applications. Approximately 63 percent are on hold or awaiting information from the applicant. Approximately 12 are close to issuance. DOH reports that several entities have decided to withdraw their ALR applications, including some that received licensure. To view an updated list of ALR licensed facilities, [click here](#).

Implementation of Palliative Care Requirements

NYAHSAs will participate in a workgroup this week regarding the implementation of the palliative care requirements outlined in the budget for enhanced assisted living residences (EALRs) and special needs assisted living residences (SNALRs). DOH is evaluating how this new requirement will be evaluated in survey and is considering including a piece on it in the Individualized Service Plan (ISP). DOH sees the role of the EALR /SNALR as supporting and facilitating referrals, much as you currently do. We will provide members with more information when we learn more.

DAI Lawsuit Update

In an interesting twist, the court has ordered a stay regarding the implementation of court orders regarding the decision in *Disability Advocates Inc. v. Paterson*. The lawsuit focused on certain "impacted adult homes" in New York City that serve the mental health population. Judge Nicholas G. Garaufis of the Eastern District Court of New York had ordered the state to take aggressive steps to ensure that adult home residents who desire placement in supported housing have access to it, if they qualify for such services. The state was ordered to take specific steps to develop more supportive housing, education and support to individuals who may qualify, and assistance with transitions; and more than \$40 million was allocated in the state budget to fund these initiatives. The state had appealed Judge Garaufis' decision and only recently was notified that they will not have to move forward on these orders pending the appeal.

Conclusion

As noted above, NYAHSA is in regular communication with DOH and encourages members to make us aware of any concerns or questions you might have that we can bring to the department's attention. During our next meeting, scheduled for July, we will discuss questions regarding the use of prn medications. If you have specific questions regarding prns, or any other matters that require attention, contact me at ddarbyshire@nyahsa.org or 518-867-8828.

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