



COMMISSIONER  
Jon Weizenbaum

April 29, 2015

To: Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICF/IID)

Subject: **Provider Letter 15-12** – Revisions to Appendix J (Guidance to Surveyors)

The Department of Aging and Disability Services (DADS) is issuing this letter to inform providers that the Centers for Medicare and Medicaid Services (CMS) has revised State Operations Manual [Appendix J](#) to reflect current standards of practice.

CMS adopted these changes on April 27, 2015. DADS Regulatory Services will begin to enforce the changes on June 1, 2015.

CMS did not change any of the regulations (W-tags) with the exception of updating W451 (42 CFR §483.470(i)(3)) which adopts the 2000 edition of Nation Fire Protection Association of the Life Safety Code. However, CMS has reorganized the facility practices, guidelines and probes associated with the regulations and have added additional expectations for ICF/IID providers.

DADS would like to draw attention to some of CMS' changes including but are not limited to:

- W135 (42 CFR §483.420(a)(10)) states that facility ensures that individuals have access to telephones with privacy for incoming and outgoing local and long distance calls except as contraindicated by factors identified within their individual program plans (IPPs).
  - ✓ The new W135 Guidance states that *any restriction of telephone access must be explained in the individual's IPP with a plan to advance the individual's access.* For persons with hearing loss who could benefit, Text Telephone (TTY) services or other accommodations should be provided. As with any other rights restriction, the restriction must be addressed in the IPP, written informed consent obtained, and the plan must be reviewed and approved by the specially constituted committee.
- W159 (42 CFR §483.430(a)) states that each client's active treatment program must be integrated, coordinated and monitored by a qualified intellectual disability professional.
  - ✓ The new W159 Guidance states, "*The QIDP function may not be delegated to other employees even though the QIDP co-signs their work.*"
- W329 (42 CFR §483.460(b)(1)) states that the establishment of each newly admitted client's initial individual program plan as required by §456.380 of this chapter that specifies plan of care requirements for ICFs/IID.
  - ✓ The new W329 Guidance states the physician (consistent with Medicaid Utilization Control regulations at §456.380) must evaluate the client at the time of admission to

identify all diagnoses and complaints, provide orders for all medications and treatments and provide recommendations for restorative and rehabilitative services.

*42 CFR §456.380 requires that a physician conduct this initial assessment therefore, it may not be done by a physician extender (e.g. Physician assistant or Advanced Practice Registered Nurse).*

- W346 (42 CFR §483.460(d)(4)) states if the facility utilizes only licensed practical or vocational nurses to provide health services, it must have a formal arrangement with a registered nurse to be available for verbal or onsite consultation to the licensed practical or vocational nurse.
  - ✓ The new W346 Guidance states that the facility must have *written arrangements with a registered nurse (RN)* to provide consultation in those instances where LPNs/LVNs provide all the direct nursing care for the clients. Verify that the agreement requires the RN to respond promptly to all calls from the LPN/LVN and to come on-site to the facility if necessary. *The facility must also ensure registered nurse back-up when the primary registered nurse consultant is unavailable (vacations, etc.).* Review documentation in the client records to confirm that the LPNs/LVNs of the facility are consulting the registered nurse consultant when indicated and that she/he responds promptly to such calls.

## **Exhibit**

CMS has developed new Exhibit 355 entitled “[Probes and Procedures for Appendix J, Part II- Interpretive Guidelines-Responsibilities of Intermediate Care Facilities for Individuals with Intellectual Disabilities,](#)” which is included in Transmittal R135SOM, after the W-tags. This exhibit contains the probes and procedures that were previously contained in the ICF/IID Interpretive Guidelines. The probes and procedures provide additional clarification for the surveyor in interpreting the regulation text.

If you have any questions, please contact an ICF/IID policy specialist in the Regulatory Services Policy, Rules and Curriculum Development unit at (512) 438-3161.

Sincerely,

[Signature on file]

Mary T. Henderson  
Assistant Commissioner, Regulatory Services

MTH/:cg