Impact Act and Regulation Update

Presenter: Brenda Richardson, MA, RDN, LD, CD, FAND
August 25, 2016

SESSION OBJECTIVES
IMPACT ACT AND REGULATION UPDATE

Understand The Impact Act and nutrition related to Quality Measures and Outcomes

Identify Regulatory Updates in LTC

IMPROVING MEDICARE POST-ACUTE CARE TRANSFORMATION (IMPACT) ACT OF 2014

TIMELINE
**IMPACT Act of 2014**

- Bi-partisan bill introduced in March, U.S. House & Senate, passed on September 18, 2014, and signed into law by President Obama October 6, 2014

- The Act requires the submission of standardized assessment data by:
  - Long-Term Care Hospitals (LTCHs): LCDS
  - Skilled Nursing Facilities (SNFs): MDS
  - Home Health Agencies (HHAs): OASIS
  - Inpatient Rehabilitation Facilities (IRFs): IRF-PAI

- The Act requires that CMS make interoperable standardized patient assessment and quality measures data, and data on resource use and other measures to allow for the exchange of data among PAC and other providers to facilitate coordinated care and improved outcomes

**Why IMPACT? Why Now?**

- The lack of comparable information across PAC settings undermines the ability to evaluate and differentiate between appropriate care settings for and by individuals and their caregivers

- Standardized PAC assessment data will allow for continued beneficiary access to the most appropriate setting of care

- Standardized PAC assessment data allows CMS to compare quality across PAC settings (longitudinal data)

- Standardized and interoperable PAC assessment data allows improvements in hospital and PAC discharge planning and the transfer of health information across the care continuum

- Standardized PAC assessment data will allow for PAC payment reform (site neutral or bundled payments)

- Standardized and interoperable PAC assessment data supports service delivery reform

**CMS Quality Strategy**

**Goals**

- Make care safer
- Strengthen person and family centered care
- Promote effective communications and care coordination
- Promote effective prevention and treatment
- Promote best practices for healthy living
- Make care affordable

**Foundational Principles**

- Enable Innovation
- Foster learning organizations
- Eliminate disparities
- Strengthen infrastructure and data systems
Achieving Better Care, Healthier People, & Smarter Spending

Why Post-Acute Care Matters

Standardized PAC Patient Assessment Data for Quality Measures

IMPACT Act requires PAC providers to report standardized assessment data for the following Quality Measure Domains by the following dates:

<table>
<thead>
<tr>
<th>Quality Measure Domains</th>
<th>LCH</th>
<th>I</th>
<th>SNF</th>
<th>HH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Functional status/cognitive function</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>1/1/19</td>
</tr>
<tr>
<td>Skin integrity</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>1/1/17</td>
</tr>
<tr>
<td>Medication reconciliation</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>1/1/17</td>
</tr>
<tr>
<td>Incidence of major falls</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>1/1/19</td>
</tr>
<tr>
<td>Communicating the existence of and providing for the transfer of health information and care preferences</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>10/1/16</td>
<td>1/1/19</td>
</tr>
</tbody>
</table>

The measure domains provided in the Act are not exhaustive.

Standardized Patient Assessment Data

- IMPACT Act requires PAC providers to report standardized assessment data in the following Assessment Data Categories:
  - Functional status
  - Cognitive function and mental status
  - Special services, treatments, and interventions
  - Medical conditions and co-morbidities
  - Impairments
  - Other categories

<table>
<thead>
<tr>
<th>Standardized Assessment Data Reporting Dates</th>
<th>LCH</th>
<th>I</th>
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<th>HH</th>
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</thead>
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<tr>
<td>10/1/16</td>
<td>1/1/19</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Standardization: ‘As Is’ Transitions ‘To Be’

As Is: Multiple Incompatible Data Sources
- Nursing Home (MDS)
- LTCIC (LDS)
- Inpatient Rehabilitation Facilities (RFR-PAC)
- Home Health Agencies (OASIS)
- Hospital No Standard Data Set
- Outpatient Settings No Standard Data Set
- LTSS No Standard Data Set

To Be: Aligned Assessment Data Elements
- Enable uniform use of data
- Exchange patient-centered health info
- Promote high quality care
- Support care transitions
- Reduce burden
- Expand QM automation
- Support survey & certification process
- Standardize OASIS

Interoperability

Data Follows the Person
- Long Term and Post Acute Care (LTPAC)
  - EMR/EM, EHR, IHA, (CDM)
- Acute Care
  - Critical Access Hospitals (CAH)
- Other Providers
  - (e.g., pharmacies, dentists...)
- Emergency Medical Services (EMS)
- Long Term Services and Supports (LTCSS)
  - Home and Community
    - Care Based Services (HCBS)
    - Assisted Living Facilities (ALF)

Summary

- The IMPACT Act requires that:
  - PAC providers report to CMS (by certain dates) standardized assessment data elements in certain quality measure domains and assessment categories; and
  - CMS make assessment data elements interoperable.

- CMS will:
  - Standardize (aka align/harmonize) data elements,
  - Make data elements interoperable by linking to health IT standards, and
  - Make available to the public reports mapping assessment data elements to health IT standards (more on this to follow).

- Use of standardized and interoperable PAC assessment data elements are key enablers to achieving service delivery and payment reform envisioned in the CMS Quality Strategy.
Value Based Payments Replaces Fee For Service

- Value Based Payments (VBP) pays for outcomes and not for the volume of services
- Total cost of care for a population
- Must focus on the most complex individuals who:
  - Drive most of the costs; and
  - Get care in multiple sites from multiple providers

Per Beneficiary Medicare Spending

<table>
<thead>
<tr>
<th>Number of Chronic Conditions</th>
<th>Average Spending</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 1</td>
<td>$2,025</td>
</tr>
<tr>
<td>2 to 3</td>
<td>$5,698</td>
</tr>
<tr>
<td>4 to 5</td>
<td>$12,174</td>
</tr>
<tr>
<td>6+</td>
<td>$32,658</td>
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</table>

Average spending for Medicare FFS beneficiaries: $7,738


Proportion of Medicare Spending

<table>
<thead>
<tr>
<th>Number of Conditions</th>
<th>Percent of Beneficiaries</th>
<th>Percent of Total Medicare Spending</th>
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<tbody>
<tr>
<td>0 to 1</td>
<td>54%</td>
<td>46%</td>
</tr>
<tr>
<td>2 to 3</td>
<td>23%</td>
<td>28%</td>
</tr>
<tr>
<td>4 to 5</td>
<td>32%</td>
<td>19%</td>
</tr>
<tr>
<td>6+</td>
<td>32%</td>
<td>7%</td>
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Changing to VBP Means Changing Communications

- Requires effective communication between sites
- To create safer transitions of care for those with the most complex issues
- To improved coordination of care across all sites with a shared care plan
- These new connections will rely on the electronic exchange of standardized and interoperable information

**MLN Connects**

What do we mean by CDA and Consolidated-CDA?

Clinical Document Architecture (CDA) is the base standard for building electronic clinical documents.

Templates provide the “building blocks” for clinical documents.

To help simplify implementations, commonly used templates were harmonized from existing CDA implementation guides and “consolidated” into a single implementation guide—the C-CDA Implementation Guide (IC).

**MLN Connects**

C-CDA R2 & Nutrition Care Process
**HOW DOES THE LTC SURVEY PROCESS AND NUTRITION FIT INTO THIS?**

COMPLIANCE, QM, QAPI, BEST PRACTICE - PERSON CENTERED CARE WITH QUALITY OUTCOMES

Shift from “Services Provided” to “Quality Measures and Outcomes”.

CMS Regulations will support this shift.

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**IMPACT ACT:**

Significance for Food/Nutrition and Dining

- Incorporates standardized assessment into existing assessment tools across PAC providers;
- Utilizes Measure Domains that are standardized;
- Requires development/public reporting of quality measures across settings;
- Applies measures that are approved by National Quality Forum (NQF) or through notice and comment rulemaking;
- Requires Hospitals and PAC providers to provide quality measures to consumers when transitioning to a PAC provider;
- Requires Health & Human Services (HHS) & Medicare Payment Advisory Commission (MedPAC) to conduct studies/reports linking payment to quality;
- Adds $11 million in funding for CMS to use payroll data to measure staffing in SNF setting. (PBI)

The Academy is informing and providing resources to practitioners to implement “best practice” for care transitions in all settings.

Source:
Discussion Points with CMS- Conference Calls

The Academy has the “Best Practice” Tools and Resources for Nutrition.

How can we work with CMS across care settings to improve outcomes?

- Nutrition Value Sets for HL-7 C-CDA R2.1 under development – nutrition assessment data harmonization?
- Strengthen nutrition assessment data (Value Sets) across care settings?
- Integrate “Best Practice” for Nutrition in CMS Resources/Manuals/etc.?
Care Transition is more important than ever!
- New CMS guidelines.
- Emerging payment models.
- Competitive marketplace.
- Focus is on coordinated care for the resident/patient/client.
- LTC Regulations and Survey Process will incorporate into Requirements of Participation.

SURVEY MANAGEMENT AND UPDATES

Current

CMS Quality Strategy

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- MLN Connects®
YOU MUST KNOW THE SURVEY PROCESS FOR SUCCESSFUL MANAGEMENT

- Overview and Rationale
- Identify Resources
- Keep Current
- Implement into Daily Operations and Management
- Focus on Quality Assurance Performance Improvement (QAPI)

WHY BE IN COMPLIANCE WITH THE REGULATIONS?

- Compliance is consistent with provision of good care/services.
- Must be certified as compliant with regulations in order to participate in Medicare/Medicaid programs.
- If not in substantial compliance, facility may be de-certified.
- Monetary penalties may result because of non-compliance.
- Facility must be licensed by the state in order to operate.
- If cannot maintain compliance with state and federal regulations, license may be revoked or not renewed.

THE PROCESS

- Traditional vs QIS
- Survey Resources: Center for Medicare Medicaid Services (CMS)
  
  ✓ State Operations Manual (SOM) – Appendix P
  
  ✓ Guidance to Surveyors for LTC Facilities – Appendix PP
  
  ✓ Guidance to Surveyors for LTC Facilities – Appendix Q
Based on a resident's comprehensive assessment, the facility must ensure that a resident—

• §483.25(i)(1) Maintains acceptable parameters of nutritional status, such as body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible; and

• §483.25(i)(2) Receives a therapeutic diet when there is a nutritional problem.

• INTENT: §483.25(i) Nutritional Status
  • The intent of this requirement is that the resident maintains, to the extent possible, acceptable parameters of nutritional status and that the facility:
    • Provides nutritional care and services to each resident, consistent with the resident's comprehensive assessment;
    • Recognizes, evaluates, and addresses the needs of every resident, including but not limited to, the resident at risk or already experiencing impaired nutrition; and
    • Provides a therapeutic diet that takes into account the resident's clinical condition, and preferences, when there is a nutritional indication.

The facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis.

• §483.35(a)(1) If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian.

• §483.35(a)(2) A qualified dietitian is one who is qualified based upon either registration by the Commission on Dietetic Registration of the American Dietetic Association, or on the basis of education, training, or experience in identification of dietary needs, planning, and implementation of dietary programs.

• Intent: §483.35(a)
  • The intent of this regulation is to ensure that a qualified dietitian is utilized in planning, managing and implementing dietary service activities in order to assure that the residents receive adequate nutrition.
  • A director of food services has no required minimum qualifications, but must be able to function collaboratively with a qualified dietitian in meeting the nutritional needs of the residents.

Interpretive Guidelines: §483.35(a)

• A dietitian qualified on the basis of education, training, or experience in identification of dietary needs, planning and implementation of dietary programs has experience or training which includes:
  • Assessing special nutritional needs of geriatric and physically impaired persons;
  • Developing therapeutic diets;
  • Developing "regular diets" to meet the specialized needs of geriatric and physically impaired persons;
  • Developing and implementing continuing education programs for dietary services and nursing personnel;
  • Participating in interdisciplinary care planning;
  • Budgeting and purchasing food and supplies; and
  • Supervising institutional food preparation, service and storage.
F361 §483.35(a) Staffing

Procedures: §483.35(a)
• If resident reviews determine that residents have nutritional problems, determine if these nutritional problems relate to inadequate or inappropriate diet nutrition/assessment and monitoring. Determine if these are related to dietitian qualifications.
• Probes: §483.35(a)
• If the survey team finds problems in resident nutritional status:
  • Do practices of the dietitian or food services director contribute to the identified problems in residents' nutritional status? If yes, what are they?
  • What are the educational, training, and experience qualifications of the facility's dietitian?

F492: Compliance With Federal, State, and Local Laws and Professional Standards

The facility must operate and provide services in compliance with all applicable Federal, State, and local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility.

Intent: §483.75(b)
• The intent of this regulation is to ensure that a facility is in compliance with Federal, State, and local laws, regulations, and codes relating to health, safety, and sanitation and with accepted professional standards and principles that apply to professionals providing services in facilities.

F500 : §483.75(h) Use of Outside Resources

• (1) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under an arrangement described in section 1861(w) of the Act or an agreement described in paragraph (h)(2) of this section.
• (2) Arrangements as described in section 1861(w) of the Act or agreements pertaining to services furnished by outside resources must specify in writing that the facility assumes responsibility for:-
  (i) Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility; and
  (ii) The timeliness of the services.
RDN Services

EFFECTIVE CONSULTANT SERVICES
Drilling Down For Positive Outcomes

Cost Effective Consultant Services

A. Define Services
B. Know Regulatory Requirements & "Best Practice" Standards
C. Define Resident Services: Acuity/Person-Directed Care
D. Time Requirements
E. Specialty Services - Growth Plans
F. Recruit-Hire-Contract-Orientation-Training-Retain
G. Monitor QAPI/Outcomes/Satisfaction
H. Evaluate

SURVEY PROCESS CHANGES
The Future: September 2016
WHAT IS COMING?

- Comprehensive Changes to Requirement of Participation.
- Reorganized existing rules.
- Added Statutory Requirements and Other Departmental priorities.

WHAT IS COMING? - CONTINUED

- Enforcement Civil Money Penalty (CMP) Increases and Immediate Imposition of Federal Remedies
- Mandatory Payroll Based Staffing Collection (PBJ)
- Revised Fire Safety Requirements: 2012 Life Safety Code (LSC): Aerosol Alcohol Based Hand Rubs; domestic cooking; corridor clutter, etc.

Minimum Data Set (MDS) 3.0:
Revisions - October 2016

- Section GG - functional assessment (Section G still in place)
- Skilled Nursing Facility (SNF) Prospective Payment System (PPS) discharge assessment.
SURVEY MANAGEMENT
THE FUTURE: SEPTEMBER 2016
- Food and Nutrition Staffing
- Menus
- Individualized preferences, intolerances, allergies, therapeutic diets
- Meals and use of Feeding Assistants
- Food Safety

CMS Quality Strategy

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Foundational Principles
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- Foster learning organizations
- Eliminate disparities
- Strengthen infrastructure and data systems

MLN Connects

Know the “Big Picture” and “Be the Leader for Improved Nutrition”

Thank You and Questions