

CMS Rule Change – May 12, 2014

As you know CMS published a final rule change concerning diet orders. The text of the major sections that pertain to this follow.

1. CMS Rule Change May 12, 2014 – Diet Order Privileges CoP
 - a. Medical Staff § 482.22
 - i. Allows for other types of non-physician practitioners (such as Advanced Practice Registered Nurses (APRNs), Physician Assistants (PAs), Registered Dietitians (RDs), and Doctors of Pharmacy (PharmDs) to be **included on the medical staff.** (§482.22(c)(1); Rule, page 27114)
 - ii. In states where State law limits appointments to certain categories of practitioners, **privileges may still be granted without appointment to the medical staff “as long as such privileges are recommended by the medical staff, approved by the governing body, and in accordance with State law.”**
 - b. Food and Dietetic Services (§ 482.28, Rule, page 27106)
 - i. All patient diets, including therapeutic diets, must be ordered by a practitioner responsible for the care of the patient, or by a **qualified dietitian or qualified nutrition professional as authorized by the medical staff and in accordance with State law governing dietitians and nutrition professionals.**
 - ii. Hospital **registered dietitian** privileges: We are permitting registered dietitians and other clinically qualified nutrition professionals to be privileged to order patient diets under the hospital conditions of participation (CoPs).
2. PA Academy of Nutrition and Dietetics Actions:
 - a. We have several challenges to implementing this ruling
 - i. Our Licensure Statute requires Physician Ordering of diets.
 - ii. The Department of Health Regulations require physician ordering of diets.
 - b. In order to fully implement the CMS ruling in Pennsylvania we must obtain changes to both of the items listed above.
 - c. A task force comprised of at least one Clinical Nutrition Manager from the largest health systems in PA has been formed.
 - d. Representatives from the PA Academy of Nutrition and Dietetics have met with the Hospital and Healthsystem Association of Pennsylvania to discuss the issues above.
 - e. Representatives from the PA Academy of Nutrition and Dietetics plan to meet with the PA Medical Society, Board of Nursing, and Department of Health to discuss the issues above.
 - f. **Until we are able to achieve regulatory changes listed above, individual hospitals and health systems may not move to implement the CMS ruling.**

The CMS Task Force has been meeting monthly since November of 2014 on the actions by the PA Academy of Nutrition and Dietetics and status for implementation of this ruling in Pennsylvania, the last of these conference calls on January 29th, 2015. Outlined below are the updates.

The Hospital and Healthsystem meeting and PA Osteopathic Medical Association meeting were good and supportive. We are in the process of setting up meetings with PA Academy of Family Physicians and hope to have a Board of Nursing Meeting next month. The PA Medical Society meeting was scheduled for the evening of January 29th, I will hear their recommendations and response at our next conference call.

Of concern was also the topic of “Qualified Dietitian vs. LDN

1. In PA, we do not have scope of practice with the exception of MNT. If qualified dietitian were changed to LDN it might leave the door open for a non-RD to be hired in a facility, depending how facility defines QD.
2. DOH, TJC and Reimbursement companies also differ in their interpretations.
3. Thus, facilities need to develop a Scope of Practice for privileges to write orders based on level of education, experience, and specialty.
4. We must also better define MNT at facilities. Public health has lost RD positions to non-RD because of lack of defined scope.
5. CNMs must be aware that HR is writing job postings and make effort to review them prior to posting. Examples were given citing postings that were for Clinical Dietitians but could be filled by a non-RD based on how they were worded. All job posting should include RD and LDN as baseline requirements for positions. This applies to large and small facilities.

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