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CMS UPDATES REQUIREMENTS TO REDUCE LEGIONELLA RISK IN HEALTH CARE FACILITY WATER SYSTEMS AND IDENTIFIES SURVEYOR EXPECTATIONS – REVIEW OF POLICIES AND PROCEDURES REQUIRED

On July 6, 2018, the Survey and Certification Group at the Centers for Medicare & Medicaid Services ("CMS") revised its memorandum, "Requirement to Reduce Legionella Risk in Healthcare Facility Water Systems to Prevent Cases and Outbreaks of Legionnaires' Disease (LD)" ("S&C Memo"), that requires that facilities develop and follow policies and procedures that inhibit microbial growth in building water systems to reduce the risk of growth and spread of Legionella and other pathogens in water. The revision clarifies expectations for providers, accrediting organizations and surveyors.

In June 2017, CMS issued the original S&C Memo and a revision to clarify provider types to apply to long-term care facilities, hospitals and critical access hospitals.

BACKGROUND

The bacterium Legionella ("LD") can cause a serious type of pneumonia in persons at risk. Those at risk include persons who are at least 50 years old, smokers or those with underlying medical conditions such as chronic lung disease. In a recent review of LD outbreaks in the United States occurring between 2000 and 2014, 19 percent of outbreaks were associated with long-term care facilities and 15 percent with hospitals. Outbreaks generally are linked to environmental reservoirs in large or complex water systems, including those found in health care facilities such as hospitals and long-term care facilities. LD can grow in parts of building water systems that are continually wet, and certain devices can spread contaminated water droplets. Transmission from these water systems to humans requires aerosol generation, as can occur from shower heads, cooling towers, hot tubs and decorative fountains.

Part 483 to Title 42 of the Code of Federal Regulations requires that skilled nursing facilities and nursing facilities must establish and maintain an infection prevention and control program designed to provide a safe, sanitary and comfortable environment and help prevent the development and transmission of communicable diseases and infections. Similar requirements exist for hospitals and critical access hospitals.

REQUIREMENTS FOR HEALTH CARE FACILITIES

CMS requires Medicare-certified health care facilities to have water management policies and procedures to reduce the risk of growth and spread of LD and other pathogens in building water systems.

An industry standard calling for the development and implementation of water management programs was published in 2015 by the American Society of Heating, Refrigerating and Air-Conditioning Engineers ("ASHRAE"). In 2016, the Centers for Disease Control and Prevention ("CDC") developed a toolkit to facilitate implementation of this ASHRAE standard that includes environmental, clinical and epidemiologic considerations for health care facilities.

Facilities must have water management plans and documentation that, at a minimum, ensure each facility:

- Conducts a facility risk assessment to identify where LD and other opportunistic waterborne pathogens could grow and spread in the facility water system;
- Implements a water management program that considers the ASHRAE industry standard and the CDC toolkit and includes control measures such as physical controls, temperature management, disinfectant level control, visual inspections and environmental testing for pathogens;
- Specifies testing protocols and acceptable ranges for control measures and document the results of testing and corrective actions taken when control limits are not maintained; and
- Maintains compliance with other applicable federal, state and local requirements.

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CMS emphasized that it does require water cultures for LD or other opportunistic water borne pathogens. Testing protocols are at the discretion of the provider.

SURVEY AND ENFORCEMENT

Facilities are expected to comply with CMS requirements and conditions of participation to protect the health and safety of residents. Facilities unable to demonstrate measures to minimize the risk of LD are at risk of citation for non-compliance with the CMS Requirements of Participation.

The S&C Memo provides that long-term care surveyors will expect that a water management plan (which includes a facility risk assessment and testing protocols) is available for review but will not cite the facility based on the specific risk assessment or testing protocols in use. Further long-term care surveyor guidance and process will be communicated in an upcoming survey process computer software update.

PRACTICAL TAKEAWAYS

Facilities must immediately review or establish policies, procedures and reports documenting water management implementation results to demonstrate that facilities:

- Conduct a facility risk assessment to identify where LD and other opportunistic waterborne pathogens could grow and spread in the facility water system;
- Implement a water management program that considers the ASHRAE industry standard and the CDC toolkit; and
- Specify testing protocols and acceptable ranges for control measures and document the results of testing and corrective actions taken when control limits are not maintained.

In addition, a facility's water management plan (which includes a facility risk assessment and testing protocols) is available for surveyors to review.

A link to the original S&C Memo and revised S&C Memo can be found here and here.

If you have questions or would like additional information about this topic, please contact:

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