

CMS ADDS SURVEY PROCESS FOR REVIEWING HOME DIALYSIS SERVICES IN LONG-TERM CARE FACILITIES

On August 17, 2018, the Centers for Medicare & Medicaid Services (“CMS”) issued a **Memorandum** to State Survey Agency Directors (QSO-18-24-ESRD) outlining additional survey activities that address dialysis services provided by an end-stage renal disease (“ESRD”) facility to residents in a long-term care facility. The survey process for evaluating home dialysis in nursing homes consists of additional survey tasks and has been incorporated into the ESRD core survey process. Review of existing agreements between ESRDs and nursing homes is needed, as there are specific elements and terms that the agreement must contain that are detailed in QSO-18-24-ESRD regarding what the ESRD facility is responsible for, what the nursing home is responsible for and the shared responsibilities of the ESRD facility and the nursing home.

BACKGROUND

All chronic dialysis patients receiving dialysis services must be under the care of a certified ESRD facility to have their outpatient dialysis care and treatments reimbursed by Medicare. Residents of a nursing home may receive chronic dialysis treatments through two options: (1) in-center dialysis, which may involve transporting a resident to and from an off-site ESRD facility for dialysis treatment; or (2) home dialysis in a nursing home, where these dialysis treatments are administered and supervised by personnel who meet the criteria for qualifications, training and competency verification as stated in this guidance and are provided under the auspices of a written agreement between the nursing home and the ESRD facility.

Medicare participating ESRD facilities must comply with the Conditions for Coverage at 42 CFR Part 494. Under this provision, Medicare-approved ESRD facilities may provide dialysis services to long-term care residents in a long-term care facility with an approved Home Training and Support modality. ESRD facilities that provide home hemodialysis or peritoneal dialysis services to long-term care residents must maintain compliance with these requirements.

ESRD SURVEY OVERVIEW

The review of dialysis services in a nursing home is considered an extension of the ESRD core survey and, as such, CMS cautions it will require additional survey time. On-site visits to a minimum of two nursing homes where ESRD patients are receiving home dialysis services will be required to adequately evaluate the dialysis services and associated dialysis care being provided in the nursing home. The on-site visits will include observations of machine setup, vascular access care and initiation and discontinuation of home hemodialysis treatments. Observations of actual peritoneal dialysis care are not required unless the survey team identifies concerns such as high rates of infection or complaints.

The ESRD survey process is to be used in conjunction with survey procedures and guidance found in the ESRD Core Survey process and the ESRD Initial Survey process. This process includes additional survey activities and guidance that address dialysis services provided by the ESRD facility to residents in a nursing home setting. If ESRD facility surveyors identify possible concerns about the quality of the non-dialysis care provided to a nursing home resident(s), CMS directs that those concerns be communicated to the state agency for a possible complaint investigation.

KEY ELEMENTS OF SURVEY PROCESS FOR ESRD SURVEYORS REVIEWING DIALYSIS IN NURSING HOMES

The ESRD survey tasks for review of dialysis in a nursing home involve the following phases: (1) survey tasks prior to the on-site visit at the nursing home; (2) survey tasks conducted at the nursing home; and (3) survey tasks conducted at the ESRD facility after the on-site visit.

The key elements of each phase are summarized below.

ESRD Survey Tasks Prior to the On-Site Visit and upon Entrance Conference at the Nursing Home

Key elements include:

- Prior to an ESRD initial or recertification survey, the surveyors should review applicable Forms CMS-3427 on file to determine if the ESRD

facility has patients who receive their dialysis treatments at a nursing plan the survey team composition and time schedule to accommodate onsite visit(s) to the nursing home(s). The review of dialysis services in a nursing home should be considered an extension of the ESRD core survey and as such will require additional survey time.

- The ESRD core survey must include an on-site visit to a minimum of two nursing homes with which the ESRD facility has written agreements (if the ESRD has only one agreement in place visit that nursing home). Surveyors should select one nursing home resident from each modality (hemodialysis or peritoneal dialysis) from each nursing home and add the residents to the ESRD patient sample for the survey.
- Prior to going on site to the nursing home, ESRD surveyors should interview the following members of the ESRD facility interdisciplinary team ("IDT") to gather information regarding the services provided by the ESRD facility to the nursing home and/or the resident(s) of the nursing home.
- The following information may be requested at the time of the ESRD survey entrance conference: (1) list of all nursing homes with which the ESRD facility has a current written agreement to provide dialysis services and the address for each nursing home; (2) names of all patients currently receiving dialysis services from the ESRD facility at each nursing home; and (3) a copy of the written agreement between the ESRD facility and each nursing home.
- The surveyors will briefly review each written agreement between the ESRD facility and the nursing home(s) selected to ensure that each agreement contains clear delineation of responsibilities for each entity. There are specific elements and terms that the agreement must contain that are detailed in QSO-18-24-ESRD regarding what the ESRD facility is responsible for, what the nursing home is responsible for and the shared responsibilities of the ESRD facility and the nursing home. Among the elements the ESRD is responsible for are: (a) coordination between the ESRD IDT and the nursing home IDT in the provision of dialysis treatments and ongoing communication regarding the resident's condition and their treatments; and (b) coordination with the nursing home to ensure qualified dialysis administering personnel remain in visual contact with the resident throughout the dialysis treatment. Among the elements the nursing home is responsible for are: (a) providing a safe and sanitary environment for dialysis treatments such as ensuring ongoing infection control practices; and (b) immediately reporting any change in the resident's condition, which may possibly be related to their dialysis regimen, to the ESRD facility and the resident's attending physician at the nursing home.

ESRD Survey Tasks Conducted On Site at the Nursing Home

Key elements include:

- Introductions of the members of the ESRD survey team to the nursing home administrator/designee in charge. It is important that nursing homes understand that if any concerns unrelated to the dialysis services provided in the nursing home under written agreement by the ESRD facility are observed during the visit, those concerns will be shared with the applicable state survey agency to process with the team responsible for oversight of the nursing home and not discussed by the ESRD surveyors with the nursing home administrator.
- Observations of the location where the resident(s) receive their dialysis treatments. This may be in the resident's room or in another location in the nursing home. Observations of the location where dialysis equipment and supplies, including dialysate concentrates, are stored.
- Observations of the direct dialysis care of the sampled resident(s), specifically looking for lapses in infection control technique, concerns about hemodialysis equipment operation and any concerns about patient monitoring during dialysis.
- Interview the sampled residents who receive their dialysis treatments in the nursing home. If a resident is unable to be interviewed due to physical or mental status, interview a family member/guardian/friend who has contact with the resident and may be familiar with the resident's care experiences in receiving dialysis at the nursing home.
- Review the nursing home medical records for the sampled residents.
- Interview any nursing home personnel administering and supervising dialysis treatments in the nursing home.
- Review applicable nursing home personnel records to ensure that personnel who administer and/or supervise dialysis treatments have received the appropriate training prior to performing dialysis care. Reminder that the ESRD facility is responsible for training and

competency verification for all nursing home personnel who administer and supervise dialysis treatments. Training should be individualized to reflect the resident's needs.

ESRD Survey Tasks Conducted On Site at the ESRD Facility After the Nursing Home Visit

Key elements include:

- **Water Treatment and Dialysate Review.** The ESRD surveyor must conduct this review at the ESRD facility to ensure the ESRD technical personnel are available to facilitate the review. Reminder, that the ESRD facility is responsible for assuring that the water and dialysate for nursing home hemodialysis equipment meet the quality standards of the ESRD Conditions for Coverage. The documentation of water and dialysate quality used in hemodialysis machines in the nursing home must be maintained at the ESRD facility.
- **Dialysis Equipment Maintenance Review.** Surveyor will review the preventive maintenance logs for the hemodialysis equipment for the sampled nursing home residents. This review is conducted at the ESRD facility. Remember that the ESRD facility is responsible for the maintenance and repair of the dialysis equipment used at the nursing home. While equipment, maintenance and repair documentation may be kept on site at the nursing home as well, it must be maintained at the ESRD facility to ensure appropriate monitoring and review.
- **Medical Record Review at the ESRD Facility.** Surveyors will review the ESRD facility medical records of the sampled nursing home patients, including labs and interdisciplinary clinic care.
- Surveyors will review the training and competency records of the nursing home dialysis administering personnel.
- Surveyors will also review for the ESRD's Quality Assessment and Performance Improvement ("QAPI") process and will look for inclusion of nursing home dialysis in the QAPI process.
- Findings of deficient practices under the ESRD Conditions for Coverage related to the provision of dialysis to residents in a nursing home setting will be included in the ESRD survey exit conference and documented on the survey Form CMS 2567.

EFFECTIVE DATE

The policy becomes effective 30 days after the date of the Memorandum, which was August 17, 2018.

PRACTICAL TAKEAWAYS

- ESRDs need to be prepared for multiple phases on the survey process, both on site and at the ESRD offices, which will include significant time, document review, including reviewing for QAPI compliance.
- Review of existing agreements between ESRDs and nursing homes is needed, as there are specific elements and terms that the agreement must contain that are detailed in QSO-18-24-ESRD regarding what the ESRD facility is responsible for, what the nursing home is responsible for and the shared responsibilities of the ESRD facility and the nursing home.
- If any concerns unrelated to the dialysis services provided in the nursing home under written agreement by the ESRD facility are observed during the visit, CMS directs that those concerns will be shared with the applicable state survey agency to process with the team responsible for oversight of the nursing home and not discussed by the ESRD surveyors with the nursing home administrator.;

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

- **Todd Selby** at (317) 977-1440 or tselby@hallrender.com;
- **Brian Jent** at (317) 977-1402 or bjent@hallrender.com;
- **Sean Fahey** at (317) 977-1472 or sfahey@hallrender.com; or
- Your regular Hall Render attorney.