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BQA Memo 04-XXX

To: Adult Family Homes
Community Based Residential Facilities
Residential Care Apartment Complexes

AFH – 02
CBRF – 02
RCAC – 02

From: Kevin Coughlin, Chief, Assisted Living Section

Via: Cris Ros-Dukler, Director, Bureau of Quality Assurance

Freedom of Choice of Pharmacy Provider

The following memo addresses a resident’s right to chose a pharmacy provider while residing in an assisted living facility.

Regulations:

Section 50.09(1)(m), Wisconsin Stats. states that every resident in a nursing home or community-based residential facility shall have the right to use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.

HFS 83.21(4)(q) states that every resident has the right to exercise complete choice of providers of physical and mental health care, and of pharmacist.

HFS 88.10(3)(i) states that every resident has the right to exercise complete choice of providers of physical health care, mental health and pharmaceutical services.

HFS 89.34(6) states that every tenant has the right to the facilities noninterference with the tenant’s choice of his or her physician and providers of other medical, mental health and pharmaceutical services. A tenant shall not be required to use medical, mental health or pharmaceutical providers who are employed by or affiliated with the facility or to whom the tenant is referred by facility staff.

Discussion:

Residents make choices at all levels of their care. Usually their first choice is the facility in which they will be admitted. Some other choices include the services they wish to have, if they want a private room and etc. Residents who chose to manage their own medications obviously have the complete choice of the pharmacy and pharmacist they wish to use. Residents who chose or must have their medications managed and administered to them by the facility may find that they still have the right to chose their own pharmacy and pharmacist but that pharmacy and pharmacist must be willing to meet the criteria the facility must follow. For example, in a Community Based Residential Facility if the facility does not have an RN who supervises medication administration the facility must have all prescription medications that staff are administering packaged in unit dose or unit time packaging by a pharmacist. In some cases the pharmacy a resident may

chose may be unwilling to package medications to those requirements. Therefore the resident's choice of pharmacy and pharmacist may be more limited.

The issue that arises is what criteria can an assisted living facility if any have in place? Assisted living facilities that are responsible for medication administration have various additional regulations they must follow. Those regulations include packaging, labeling, storing, administration documentation, physician notification, and medication error reporting requirements. These requirements mean that pharmacies that provide medications to the residents in the facility where the facility administers the medication need to adhere to these requirements as well. When a resident's choice a pharmacy does not wish to provide the medications under these requirements a resident's choice may be limited.

Result:

In some cases facilities have unknowingly created criteria for pharmacies that have eliminates all choice for resident's or in other cases have unknowingly presented materials that it appears the resident has no choice but to use the pharmacy preferred by the facility. Therefore the following guidelines are provided to assist assisted living facilities when creating criteria for pharmacies that the facility applies to all pharmacies the resident chooses and the pharmacy the facility prefers.

The resident may select any pharmacy to provide services that agrees to follow the procedures set up by the assisted living facility. The assisted living facility procedures will apply equally to all pharmacy providers. The procedures for the drug distribution system shall include:

1. **Packaging and labeling of medications.** This may be in bulk containers, prescription vials, punch cards, unit time packets or unit dose packages. If the unit dose system is selected, it will apply only to the items that are supplied in unit dose (i.e., tablets and capsules). If liquids are not in unit dose, then the nursing home cannot prevent any pharmacy from providing bulk liquids. If punch cards are selected, the pharmacy must provide medications in a card system. Systems do not need to be from the same manufacturer but can be similar in function.
2. **Pharmacy information to the nursing home on proper use of medications.** Each providing pharmacy is expected to give information to the nursing home about special requirements for medication use or administration. The pharmacy is also expected to attach auxiliary labels to the containers as required in the code of federal regulations, 42 CFR 483.60(d). The pharmacy will have a resident medication profile that allows checking for drug interactions, allergies, and duplications before the prescription is filled and sent to the nursing home. Any concerns identified by the providing pharmacist must be brought to the attention of the nurse in charge at the facility and the prescribing physician.
3. **Emergency dispensing and delivery.** If a facility is responsible for obtaining all medications for the resident they can set reasonable criteria related to dispensing and delivery or emergency medications.

The following items are not part of a drug distribution system. A pharmacy does not have to provide these services in order to provide medications to an assisted living resident. The items listed below are examples and are not meant to be all-inclusive.

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1. Medication forms or records, including the medication administration records, physician orders, treatment records, and other computer printouts;
 2. FAX machines, computers, or other such equipment;
 3. Intravenous services;
 4. Medication carts and equipment for administration of medications (e.g., IV pumps, etc.);
 5. Consultation services, including drug regimen reviews, nursing station inspections, medication pass observations, committee meetings, and assessment reviews not related to dispensing of the medication; and
 6. Inservice training.