**R414. Health and Human Services, Integrated Healthcare.**

**R414-516. Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program.**

**R414-516-1. Authority and Purpose.**

(1) Sections 26B-1-213 and 26B-3-108 authorize this rule.

(2) This rule defines participation requirements for the Quality Improvement (QI) program within the Nursing Care Facility Non-State Government-Owned Upper Payment Limit (NF NSGO UPL) program. This rule applies only to a nursing facility provider that is part of a contract with the department to participate in the NF NSGO UPL program.

**R414-516-2. Definitions.**

Terms used in this rule are defined in Rule R414-505. Additionally:

(1) "Certification and survey provider enhanced reports" or "CASPER" means a quality measure report used by the Centers for Medicare and Medicaid Services (CMS) to compare data between nursing facility programs.

(2) "Department" means the Department of Health and Human Services.

(3) "Program" means the Quality Improvement (QI) program within the NF NSGO UPL program.

(4) "Resident" means a Medicaid patient who resides in and receives nursing facility services in a Medicaid-certified nursing facility.

(5) "Seed contract" means a contract between the Division of Integrated Healthcare (division) and a non-state government entity to participate in the upper payment limit program.

(6) "State licensing" means the entity assigned to regulate each health care facility.

**R414-516-3. Quality Improvement Program Requirements of Participation.**

(1) A program is required in six of nine metrics to:

(a) score better than the national average;

(b) improve from the earlier state fiscal year (SFY); or

(c) not receive a state survey deficiency of F, H, I, J, K, or L.

(2) The metrics and state survey used for the program are in accordance with the:

(a) CASPER percentage of long-stay residents assessed and appropriately given the seasonal influenza vaccine;

(b) CASPER percentage of long-stay residents with a urinary tract infection;

(c) CASPER percentage of long-stay residents with pressure ulcers;

(d) CASPER percentage of long-stay residents experiencing at least one fall with major injury;

(e) CASPER percentage of long-stay residents who lose too much weight;

(f) CASPER percentage of long-stay residents who receive an antipsychotic medication;

(g) CASPER percentage of long-stay residents whose ability to move independently worsens;

(h) adjusted nursing staff hours for each resident each day; and

(i) data from the state survey without a deficiency of F, H, I, J, K, or L.

(3) If CMS modifies or removes a metric for any SFY, the department shall notify each facility and consider the metric as achieved for those facilities.

(4) If state licensing does not conduct a survey for a program in any given SFY, the survey requirement described in Subsection (2)(i) is removed from consideration and the facility shall meet five of eight metrics.

(5) If more than one survey is completed during the QI SFY, then each survey is used for the period.

(6)(a) The source of data used to calculate compliance comes from the CMS website except for data described in Subsection (2)(i), which comes from state licensing.

(b) Any data that represents the SFY is used for the analysis.

(c) Each program shall provide data to CMS for nursing hours and CASPER.

(d) The division shall download the data for the SFY once that data becomes available, and that data shall become the sole source for the CASPER and nursing hours data.

(e) Each program shall complete and accept any data correction in the CMS interface system before the division data pull for the SFY.

(f) A program may not submit data directly to the division.

(7) The division may not require a provider that enters the NF NSGO UPL program for only part of an SFY, based on the provider participation start date, to comply with the QI requirements described in Subsection (2) in the first SFY.

**R414-516-4. Exceptions and Holdings.**

(1) The division shall notify a program when it does not meet the requirements of Subsection R414-516-3(1) and place the program on probation during the subsequent SFY.

(2) Within 30 days of receiving notice, the program shall email to qiupl@utah.gov:

(a) a detailed description of why the facility did not comply with the requirements; and

(b) a corrective action plan detailing how the facility will comply in the subsequent SFY.

(3) If the program fails to comply with Subsection R414-516-3(1) for a second consecutive SFY, the division shall send the program a notice of failure to meet the requirements.

(a)(i) Within 30 days of receiving notice, the program may submit a written request to remain in the seed contract, which contains evidence showing extraordinary circumstances that reasonably prevented the program from demonstrating compliance.

(ii) Based on the evidence, the division may determine the program has provided sufficient documentation to meet the burden of proof and waive the reduced NF NSGO UPL supplemental payment for the program.

(b) Effective the last day of the quarter in which the division determines non-compliance, the division shall reduce the NF NSGO UPL supplemental payment to the program by 15% for each metric that does not meet the requirement of Subsection R414-516-3(1) for at least 12 months of NF NSGO UPL supplemental payments.

(c) If the division determines the program has complied with Subsection R414-516-3(1) for an entire subsequent SFY, the division shall pay the full NF NSGO UPL supplemental amount, effective the first day of the quarter after the determination is made.

**KEY: Medicaid**

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**Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108**