Nebraska Department of Health and Human Services Licensure Unit, Office of Outpatient and In-Home Care Services Guidance — COVID-19

Updated May, 14, 2020

Nebraska Department of Health and Human Services (DHHS), Licensure Unit, and Office of Outpatient and In-Home Care Services are aware of the stresses and burdens that COVID-19 has placed on home health agencies (HHAs) and hospices. It is also aware that the federal government has amended or waived certain survey and certification (S&C) and payment requirements for Medicare Parts A and B and other programs in response to COVID-19. For example, Section 3708 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, included nurse practitioners, clinical nurse specialists, and physician assistants among those who can provide the certifications of eligibility for home health services and establish and review the care plans for furnishing such services that are required for Medicare S&C compliance and payment. In addition, the Centers for Medicare and Medicaid Services has waived a number of requirements that HHAs and hospices must meet for Medicare S&C compliance and payment, including requirements regarding initial assessments, on-site supervision, non-core hospice services, and more.

Some Nebraska licensing regulations applicable to HHAs and hospices parallel the federal requirements that have recently been amended or waived. DHHS does not intend to apply state regulations when it determines that doing so would frustrate the purposes or intentions of the federal waiver or other federal action and the State of Nebraska's COVID-19 response, when the regulations fundamentally conflict with the federal waiver or other federal action or would make it impossible for the State to rely on the federal waiver or other action in its COVID-19 response. As such, the Licensure Unit reiterates its earlier guidance that it is suspending all survey activity during the COVID-19 state of emergency except to:

- investigate situations or concerns that pose potential or actual imminent danger;
- investigate issues regarding infection control practices; and
- conduct initial inspections of new facilities and services.

The same focus of survey activities applies to Nebraska licensing statutes and regulations for bathing services for non-medically fragile persons in the person's home for which there is no federal waiver.

The Office of Outpatient and In-Home Care Services is reviewing state regulations for conformity with Section 3708 of the CARES and the federal regulations implementing it. These federal regulations have not yet been promulgated.