

# **Intermediate Care Facilities for Individuals with Intellectual Disabilities Deficiency Determination**

Bureau of Facility Standards

December 19, 2006  
(Updated March 21, 2018)

# BFS Requirements

- Survey in accordance with the SOM
- Statement of deficiencies – CMS 2567
- IDR

# Basic Concepts

*Intermediate Care Facilities  
for Individuals with  
Intellectual Disabilities  
(ICFs/ID)*

# Survey Background

- Survey Protocols
- Interpretive Guidelines
- Outcome Based

# Basic Concepts

- The SOM
- Appendix J
  - Column 1: Tag number
  - Column 2: Regulation
  - Column 3: Guidance to surveyors

# The Regulations

- Conditions of Participation (CoPs)
- Standards

# CoPs

- Compliance Principles

# Standards

- Facility practices
- Guidelines
- Probes

# The 8 Conditions of Participation

- Fundamental
  - Client Protections
  - Active Treatment
  - Client Behavior and Facility Practices
  - Health Care Services
- Non-Fundamental
  - Governing Body
  - Facility Staffing
  - Physical Environment
  - Dietetic Services

# The Fundamental CoPs

- W122: Client Protections

To ensure the facility actively asserts the individuals' rights and does not wait for him or her to claim a right including:

# Client Protections

- Constitutional rights
- Life
- Liberty
- Pursuit of happiness
- Freedom from cruel and unusual punishment
- Due process under the law
- Equal protection under the law

# Client Protections

## Encompasses

- Protection of the individuals' rights
- Individuals' finances
- Communication with family, friends, other individuals, and guardians
- Staff treatment of individuals

# The Fundamental CoPs

- W195: Active Treatment Services
  - Acquisition of the skills necessary for maximum independence
  - Prevention of loss or regress of current optimal functioning for individuals
  - Does not include maintenance of generally independent individuals

# Active Treatment

- Encompasses all aspects of the Active treatment loop which include:

# Active Treatment Loop

## Basic Components

- Assessment
- Team
- Plan & Programs
- Implementation & Data Collection
- Monitor
- Reassess

# The Fundamental CoPs

- W266: Client Behavior & Facility Practices

To ensure

- Restrictive interventions are used only when warranted
- Staff teach and reinforce appropriate behaviors as functional substitutes
- The use of positive techniques, teaching strategies, and supports

# Client Behavior & Facility Practices

To ensure (con't.)

- Restrictive interventions are only used when less restrictive interventions have been systematically tried and found to be ineffective
- Restrictive interventions are employed with sufficient safeguards and supervision to ensure that the safety, welfare and civil and human rights of individuals are adequately protected

# Client Behavior & Facility Practices

## Encompasses

- Conduct towards individuals
- Management of inappropriate behavior
- Time out rooms
- Physical Restraints
- Behavior Modifying Drug Usage

# The Fundamental CoPs

- W318: Health Care Services

To ensure

- Individuals receive preventative services and prompt treatment for acute and chronic health conditions
- Individuals' health is improved or maintained unless the deterioration is due to a documented clinical condition for which deterioration or lack of improvement is an accepted prognosis

# Health Care Services

## Encompasses

- Physician Services
- Nursing Services
- Audio, Visual, and Dental Services
- Pharmacy Services
- Laboratory Services
- Drug Regimen Review & Drug Administration

# The Non-fundamental CoPs

- W102: Governing Body & Management  
To ensure
  - The other 7 CoPs are met
  - The governing body identifies and takes action to resolve systemic or recurrent problems
  - Maintains licensing and/or approval required by Federal, State or Local laws

# Governing Body

## Encompasses

- Structure & Responsibility
- Federal, State, & Local Law Compliance
- Individual Records
- Outside Service Agreements

# The Non-fundamental CoPs

- W158: Facility Staffing

To ensure there are sufficient numbers of trained, qualified staff necessary to meet the individuals' needs.

# Facility Staffing

Encompasses

- QIDP services
- Professional services & staff
- Facility staffing
- Residential direct care staff
- Staff training program

# The Non-fundamental CoPs

- W406: Physical Environment

To ensure the environment promotes the health and safety, independence and learning of the individuals who reside there

# Physical Environment

## Encompasses

- The living environment & furniture
- Equipment including adaptive devices
- Water temperatures, heating & ventilation
- Emergency plans and procedures
- Infection control program

# The Non-fundamental CoPs

- W459: Dietetic Services

To ensure

- Individuals receive necessary services and supports to maintain their body weight and lab values
- Individuals receive training and supports which enable them to eat as independently and in as normalized manner as possible, appropriate to their functional abilities

# Dietetic Services

## Encompasses

- Food & Nutrition Services
- Meal Services
- Menus
- Dining Areas and Service

# Three Potential Survey Stages

- Fundamental
- Extended
- Full

# The Fundamental Survey

- Starting point for most annual re-certification surveys
- Focuses on 55 fundamental outcome requirements associated with 4 fundamental CoPs
- When met, the facility is considered to be in compliance with all 8 CoPs

# The Extended Survey

- Occurs when the survey team finds unmet fundamental requirements and believes one or more fundamental CoP(s) is not met
- Examines fundamental and non-fundamental requirements for the fundamental CoP(s) at issue
- Results in a decision on fundamental CoP compliance

# The Full Survey

- Occurs when scheduled or when the survey team finds that one or more fundamental CoP was not met and believes one or more non-fundamental CoP(s) was not met and receives State Agency approval to proceed
- Examines all fundamental and non-fundamental requirements and CoPs

# The Eight Survey Tasks

Require by the SOM as follows:

- 1 – Sample selection
  - 2 – Review of the facility systems to prevent abuse
  - 3 – Observations
  - 4– Interviews
  - 5– Drug pass observation
  - 6– Visit each area of the facility
  - 7 – Record review
  - 8 – Team assessment of compliance & formation of
- 2567

# Task 1: Sample Selection

- Random
- Reflects a proportionate representation of individuals by the four functional levels as defined by the AAMR, *Classification in Mental Retardation*, 1983.

## **Task 2: Review of Facility Systems to Prevent Abuse, Neglect, Mistreatment and to Resolve Complaints**

- To ensure that a reproducible and responsive mechanism is in place
- The system should be prompt and reliable

# Task 3: Observations

- Determine if the relationship exists between the individuals' needs/preferences and what staff know and do with the person, in formal and informal settings, throughout the day and evening

# Task 4: Required Interviews

- With: Individuals, family members, advocates, staff
- To determine how the individual perceives the services delivered by the facility and to clarify information gathered during the observations

# Task 5: Drug Pass Observation

- To observe the preparation and administration of medications to individuals to detect errors in drug administration

# Task 6: Visit Each Area of the Facility

- To ensure that all areas of the facility are providing services in the manner required by regulation
- To assess the physical safety of the whole environment
- To ascertain that individual rights are proactively asserted and protected

# Task 7: Record Review for Individuals in the Sample

Purpose is to verify

- Information from observations and interviews
- That needed revisions to objectives have been made
- That needed health and safety supports are in place

# Task 8: Team Assessment of Compliance

## Purpose

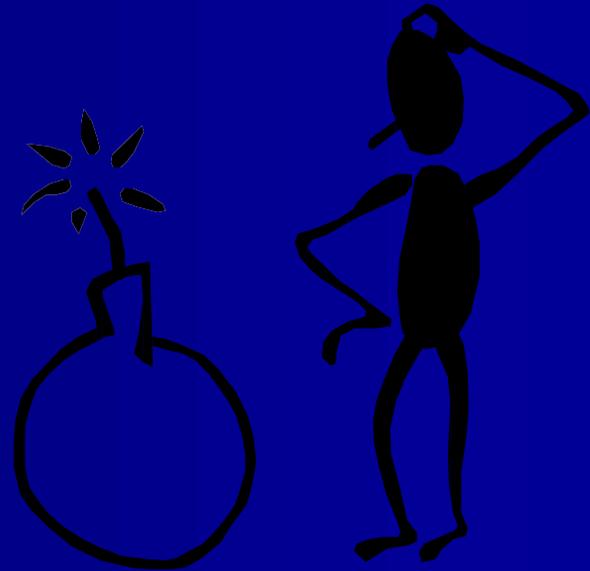
- Discuss findings
- Make Consensus conclusions
  - Compliance principles
  - Facility practice statements
  - Appendix Q

# Appendix Q

- Appendix Q of the SOM provides guidelines for Determining Immediate Jeopardy

# Jeopardy

- Jeopardy is defined as a situation in which the facility's noncompliance "...has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility."



# Components of IJ

- Harm (actual or potential)
- Immediacy
- Culpability

# Reasonable Person Concept

- “The Reasonable Person” concept is the standard by which decisions regarding compliance are made as they relate to pain, dignity, privacy, restraints, visitation, abuse, assistance with ADLs, etc.

# Team Assessment of Compliance (con't.)

- Identify deficient practice/noncompliance
- Assign W-tags
- Exit Conference

# Task 8 (Con.t)

- Formation of the Report of ICF/ID Deficiencies CMS 2567

The statements of deficient practice documents the noncompliance for federal certification and state licensure

**IDR**

*Informal Dispute  
Resolution*

# IDR

- IDR establishes an independent review process for the purpose of resolving disputes with ICFs/ID over federal and state deficiencies cited during a survey.

# IDR

- This independent review process has been developed with the expectation that all parties act in good faith, treat others with respect and professionalism, and recognize that there will be issues of honest disagreement.

# IDR Structure

The IDR is conducted by a 5 person panel consisting of

- One representative and an alternate selected by and from the Idaho Commission on Aging,
- Two representatives and alternates selected by and from the ICF/ID industry, and
- Two representatives and alternates selected by and from the Department.

# The Panel

The Panelists and alternatives shall

- Serve for a period of at least one year.
- Have completed training developed by the Executive Oversight Committee (EOC).
- Abide by the Panelists' Code of Ethics

# IDR Process

- If disputes arise and can not be resolved prior to the 2567 survey report being issued (Level 1), the facility may request a Level 2 Review, referred to as Informal Dispute Resolution or IDR, of the involved deficiencies.

# IDR Process

A facility shall request an IDR by

- Completing a request form for each disputed deficiency and returning the original form and 6 copies to the IDR Support Coordinator.
- If the facility wants the Panel to consider additional evidence, the evidence and 6 copies must also be sent at the time of the request for an IDR.
- The facility should also attach to the request form copies of the pages from the Survey Report (2567) with the Tags and Tag examples in dispute

# IDR Process

- The IDR request and any evidence must be received by the IDR Support Coordinator within 10 calendar days of receipt of the Survey Report (2567).
- No requests will be accepted after the 10th calendar day.

# IDR Process

## The IDR Support Coordinator

- Sends/delivers IDR materials (request, additional evidence, etc.) to panel members two weeks in advance of the next regularly scheduled hearing
- Regularly scheduled meetings will be held the third Thursday of the month

# IDR Process

## The IDR Meeting

- Five Panel members, representing the respective interests, must be present to conduct and decide an IDR.

# IDR Process

The IDR meeting will include:

- Presentation of the facility's evidence (15 minutes)
- Presentation of the State's evidence (8 minutes)
- Opportunity for the Panel to ask questions for clarification

# IDR Process

## IDR Decision Making:

- By consensus
- By affirmative vote of four Panel members

# IDR Process

## IDR Decision Making Options:

- Support the deficiency
- Amend the deficiency
- Delete the deficiency.

# IDR Process

## Department Actions

- Review of IDR decisions
- Revise reports as necessary