

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-09-XX

DATE:

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) – Clarification of Interpretative Guidance for 42 CFR 483.420(d)(2)

Memorandum Summary

- The regulations for ICFs/MR at 42 CFR 483.420(d)(2) require that the facility ensure that all allegations of mistreatment, neglect or abuse, as well as *injuries of unknown source*, are reported *immediately* to the administrator or to other officials in accordance with State law through established procedures.
- This memorandum clarifies the definitions for the terms “injury of unknown source,” and “immediately.”

Background:

Section 42 CFR 483.420(d)(2) of the ICF/MR regulation addresses the obligation of the facility staff to report allegations of mistreatment, neglect or abuse, and injuries of unknown source immediately to the administrator of the facility or to other officials in accordance with State law through established procedures. Both State and Federal surveyors have requested further clarification regarding the parameters surrounding what constitutes “injuries of unknown source” and the definition of “immediate” reporting of such injuries.

Discussion:

An injury should be classified as an “injury of unknown source” when both of the following conditions are met:

1. The source of the injury was not observed by any person **or** the source of the injury could not be explained by the resident; **and**
2. The injury is **suspicious** because of the extent of the injury **or** the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma) **or** the number of injuries observed at one particular point in time **or** the incidence of injuries over time.

It is important to note that members of the ICF/MR population are predominantly an independently mobile population and lead active lives; therefore, they experience normal day-to-day bumps and minor abrasions as they go about their lives. These minor occurrences which are not of serious consequence to the individual and do not present as a suspicious or repetitive injury (as discussed above) should be recorded by the facility staff once they are aware of them. However, it is not necessary to report these minor occurrences to the facility administration or to conduct an investigation.

Section 42 CFR 483.420(d)(2) further requires that reporting by the facility staff of all injuries of unknown origin which meet the definition provided in points (1) and (2) above must be done “immediately.” For the purpose of this regulation “immediately” means as soon as possible, but not to exceed 24 hours after discovery of the incident. Conformity with this definition will necessitate that the facility administration have procedures in place to receive reports, even on off-duty hours (e.g., answering machine, voice mail, and fax).

Effective Date: This clarification is effective immediately. Please ensure that all appropriate staff are fully informed within 30 days of the date of this memorandum.

Training: This clarification should be shared with all survey and certification staff, surveyors, their managers, and the State/RO training coordinator.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management