



# OHIO DEPARTMENT OF HEALTH

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BO Strickland, Governor

Alvin D. Johnson, M.D. (Director of Health)

To: Ginger Schuerger-Davison, Regulatory Director, Ohio Health Care Association  
Dawn Kennedy, Director of Education & Convention, Ohio Academy of Nursing Homes  
Fran Savard, Director of Regulatory Relations and Data Services, AOPHA

Date: November 6, 2009

Subject: Change in CMS guidance regarding Injury of Unknown Source (IUS) Investigation Guide

From: Rebecca S. Maust, State Survey Director

Attached please see the letter we received yesterday from CMS/ROV Chicago advising the state survey agency to change our interpretation of CFR483.13 (c)(2), Data Tag F225.

Therefore, please advise your providers of this policy change:

**“CMS interpretation of the requirement is that ALL alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source and misappropriation of resident property be reported immediately to the administrator and to the State survey and certification agency.”**

**Further CMS states “CFR 483.13 (c)(2) and S&C 05-09 memo “does not allow providers 24 hours to investigate and then determine if an incident is reportable.” (Emphasis added.)**

Based on this CMS guidance, we have removed the injury of unknown source (IUS) investigation guide from the ODH website. Additionally, ODH will send notice to all providers through their enhanced information dissemination and collection (EIDC) account.

Thank you for your attention to this important matter.

Attachment

November 2, 2009

Rebecca Maust, Chief  
Division of Quality Assurance  
Ohio Department of Health  
246 North High Street  
Columbus, OH 43215

Dear Ms. Maust:

We recently asked the six states in Region V to send us any information they have disseminated to Long Term Care (LTC) providers or placed on their website regarding processes for LTC providers to report allegations of abuse, neglect, mistreatment, injuries of unknown origin and misappropriation of property.

Regional Office (RO) staff reviewed information posted on Ohio's website at [www.odh.ohio.gov](http://www.odh.ohio.gov), under Health Care Facility Regulations, nursing homes. The website includes a document titled "Injury of Unknown Source (IUS) Investigation Guide" which is a decision tree for providers to use in determining reportable IUS. This document outlines the following steps in making a decision whether to report or not report an IUS to the state survey agency:

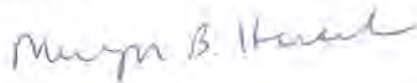
1. Was the injury observed by any person or explained by the resident? If NO...
2. Is there a written or verbal allegation of abuse/neglect? If NO:  
The director of nursing (or designated licensed staff) should determine the scope of investigation based on the nature of the injury and professional judgment; interview an/or obtain a statement from the resident; interview and/or obtain a statement from the person who discovered the injury; interview and/or obtain statements from potential witnesses as determined by the scope of investigation; review the resident's clinical records for relevant information (diagnosis, history, similar injuries, etc)
3. Is there a reasonable suspicion that abuse/neglect may have occurred? If YES:  
Investigate as abuse/neglect allegation. Use ANM Investigation Guide; Immediately (no later than 24 hours) notify the state survey agency on form HEA 1652. If NO: Document summary of conclusion of investigation; Review the resident's plan of care and revise as necessary to prevent recurrence of injury; No report to the Ohio Department of health is necessary if answers to questions 1, 2 and 3 are all "NO" and the investigation is completed under 24 hours.

Our staff discussed this with you and your staff during a conference call on October 30, 2009 and informed you that the regulation at CFR 483.13(c)(2), F225 requires immediate reporting to the State Agency and that the S&C 05-09 memo, which defines "immediately," as "as soon as possible, but ought not exceed 24 hours after discovery of the incident," does not allow providers 24 hours to investigate and then determine if an incident is reportable. CMS interpretation of the requirement is that ALL alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source and misappropriation of resident property be reported immediately to the administrator and to the State survey and certification agency. We further verified Region V's interpretation with CMS Central Office.

Therefore, we are asking that you review all information posted on your website, instructions to surveyors and all other materials that have information related to the federal long term care regulations at 42 CFR 483.13(c) to ensure the information is consistent with the regulations. Any information that is found not to be consistent needs to be modified or deleted.

If you have any questions regarding this, please contact Nadine Renbarger at 312 353-2850.

Sincerely,



Marilyn B. Hirsch  
Acting CSCOM for Jerry Sandlin

cc: Jeane Nitsch, CMS Central Office