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FREE WEBINAR

Regulatory road trip:

What's coming for SNFs in 2023 and how to prepare

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Your Speakers

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Agenda

- Introductions
- Increasing complexity
- Regulatory environment
- Details
- Opportunities for providers/next steps
- Q&A

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Increasing Resident Care Complexities Driving Change

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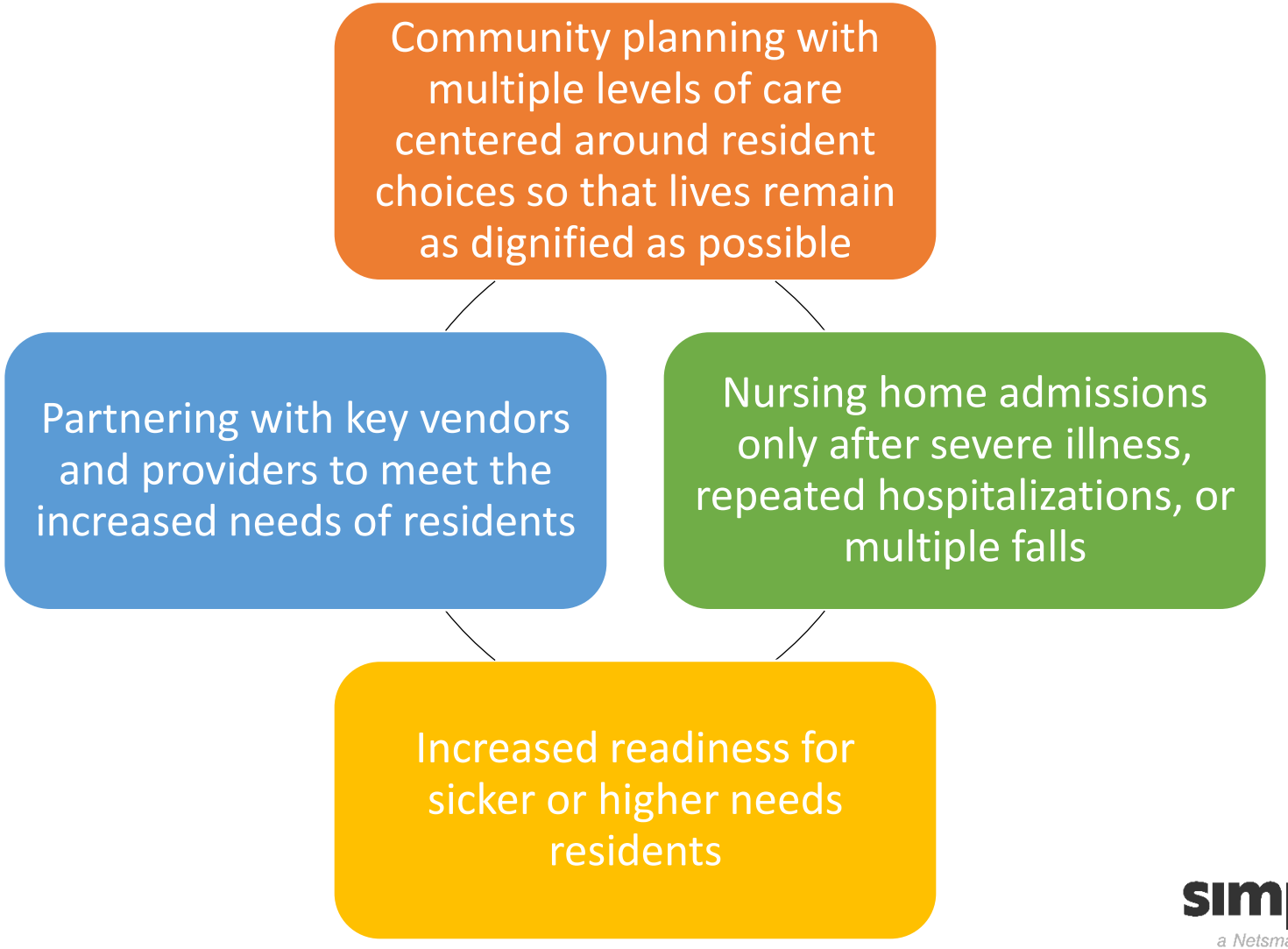
Consumers' Independent Expectations

- Consumers expect to age in the most independent setting possible, saving senior care for the last leg of their journey
- They have remained more active and are healthier
- They intend to remain in their homes well past the point when they need a little help
- Consumer preference and funding for in-home caregivers, including family

Sicker Residents, Higher Needs

- In 2016, Medicare changed the rules and reimbursement structures around long-term acute care hospitals (LTACHs), shifting many of these residents to skilled nursing facilities (SNFs)
- Especially during a time of workforce crisis, providing enough well-trained staff to care for people outside of such settings can be insurmountable
- Many insurances will only pay for long-term care (LTC), offering no financial support for aging at home or even assisted living (AL)
- While state and federal governments seek solutions, it will take time and determination to make changes

Senior Living Providers' Response



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Regulatory Environment: Senior Housing

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AL Regulation

- Increasing acuity in AL
  - According to a 2021 study, during a 10-year period ending in 2017, the proportion of residents in AL with high care needs increased 18%, compared to 9% in nursing homes
  - Acuity levels are higher among dually eligible AL residents compared to AL residents who are not dually eligible
- These trends can lead to increasing medicalization of AL and, in some cases, increased regulatory pressure from states

Source: Innovation in Aging

AL in This New Paradigm

- AL provides “skilled home care” services to residents returning from the hospital
- AL develops broader skills base and supplements staff to provide a menu of higher-level services
- Those who cannot be sustained in this new environment go to SNFs

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Impact

- Medicare Advantage (MA) and Medicaid Managed Care Organizations are approving fewer patients' admission to SNFs
- More patients are choosing home- and community-based services (HCBS)
- States are gearing up to cover Medicaid recipients in lower levels of care, including AL and others
- The result is that only the sickest patients with the fewest resources and the most complex morbidities are in skilled nursing

Payment Environment: Skilled Nursing

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Medicare SNF Payment Landscape: Opportunities and Challenges

Opportunities

- Speech Language Pathology (+26%) and Nursing CMIs (+13%) have increased significantly since start of Patient-Driven Payment Model (PDPM), indicating opportunity for revenue growth
- Total therapy minutes were reduced by 13% after start of PDPM; group and concurrent therapy spiked up initially, then went down due to COVID-19

Challenges

- Full 2% sequestration adjustment took effect on July 1, 2022, after COVID-19 hiatus
- Market basket increase, net of productivity and parity adjustments = 2.7%, while inflation running 5–8%
- Recalibration of parity adjustment will result in an additional 2.3% reduction to the market basket update in FY 2024 as well

PDPM imperatives: Efficient therapy contracts, accurate coding, adding specialty services (respiratory, dialysis, etc.)

Source: JAMA Health Forum

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MA Penetration Approaching 50% of Enrollees Nationally

- As these plans grow, opportunities and challenges increase:
  - MA plans received an 8% increase in 2022, and their payments are based on their quality scores and diagnostic codes of members; opportunity for providers to work more closely together
  - Unfortunately, slow or inadequate payments, administrative hassles, or out-of-date contracts are just a few of the issues that providers may continue to face
- For the last several years, MA plans have been allowed to add "supplemental benefits" for services not covered by Medicare, providing new opportunities for innovative partnerships with LTC providers

Source: Better Medicare Alliance

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Changes Coming to Medicare's Value-Based Purchasing (VBP) Program for SNFs

- The current SNF VBP adjustment only looks at one metric (30-day readmissions) and only makes a relatively small adjustment to Medicare Part A rates
  - **Note: this adjustment has been paused under the Public Health Emergency**
- The Consolidated Appropriations Act of 2021 (CAA) authorizes the secretary to apply up to 9 additional measures to the program in coming years
- To that end, CMS adopted 3 new measures into the SNF VBP Program for upcoming use

Regulatory Environment: Skilled Nursing

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Requirements of Participation (ROP) Changes

Refocused emphasis of patient-centered care in numerous survey categories

Updated facility assessments to care for residents with mental illnesses, substance abuse disorders, and behavioral disturbance related to dementia or other causes

It will be important to provide ample staff training and programming specific to meeting those special needs

Regulatory changes to the ROP went into effect on October 24, 2022, with maximum impact expected in 2023

Infection Prevention

- CMS has formalized earlier discussions around infection prevention, which include rules around visitation, screening, vaccination, and managing staff and resident illnesses
- Clarifications also include requirements for each facility to employ an infection preventionist (IP), the required hours for the IP based on facility assessment, and the IP credentialling process

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Infection Prevention (continued)

- Visitation should be permitted, even during an infectious disease outbreak, with decisions made on a person-centered basis
- Screening employees and visitors upon entry, posted signage, vaccines, and hand hygiene continue
- Environmental changes to include reduction to single or dual bedrooms
- Evaluation of HVAC systems, with emphasis on increased filtration and outdoor air exchange

Infection Preventionist

Professional person with specialized training and certification who is on-site at the facility at least part-time, with a schedule determined by facility assessment

Leads the facility in its infection prevention efforts through staff education, program/policy development and implementation, and oversight of related activities

Leads Antibiotic Stewardship:

-Formalized process

-Leadership coordination

-Tracks the use and assessment of ABX

-Continually educates Staff

Tracks, trends, and reports all infections, applying practice standards to create change and compliance; reports current data to Quality Assessment and Assurance (QAA) and leads infection prevention and control quality improvement

Freedom from Abuse, Neglect, and Exploitation (F600)

- Policy to include new “8th element”—coordination with QAA
- Surveyors instructed not to assume abuse in resident-to-resident altercations
- New guidance: assess for capacity to consent in sexual occurrences
- Expanded definition and context for “Neglect” includes failure of communication about care plan
- Psychosocial Outcome Severity Guide may be used to determine severity of deficient practice based on observations, interview, and/or chart review, and at times, using the “reasonable person” concept

Neglect: A New Definition

- Neglect is also “the failure of the facility, its employees or service providers, to provide goods and services” to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional stress
- Neglect includes cases where the facility’s indifference or disregard for resident care, comfort, or safety resulted in or could have resulted in physical harm, pain, mental anguish, or emotional distress

Transfer/ Discharge Changes (F622, F623, F626)

- Clarifies distinction between discharge and transfer
- Right to a clear notice of intent to discharge
- Permitting residents to return to the facility post-hospitalization or therapeutic leave or required to meet F623 notice; must allow return during appeal
- Discussion of Against Medical Advice (AMA) protocol

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Accuracy of Assessments (F641)

- Diagnosis must be valid and verified by a licensed physician
- **Caution** about using the diagnosis of schizophrenia as a justification for use of antipsychotics
- CMS intends to find and penalize this action and will potentially collect payments made based on diagnosis

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Failure to Prevent Accidents (F689)

- E-cigarettes and vapor devices to be treated as smoking materials
- New definition of elopement: a situation in which a resident leaves the premises or a safe area without the facility's knowledge and supervision, if necessary, would be considered an elopement
- A resident with a substance use disorder (SUD) should be carefully assessed for potential to leave the facility to acquire substances, as well as the potential for overdose and other related occurrences
- If the individual has capacity, it would not be considered elopement unless the facility was unaware the individual had left
- In the event of an overdose or other negative outcome, the assessment and interventions put in place by the facility would be evaluated closely

Facility Reported Incidents (FRIs) (F689)

- What constitutes an FRI is defined in new language
- A standardized form for reporting has been sent by CMS to each State Survey Agency for implementation
- Effort is to standardize the FRI definition and management process, which currently varies from state to state

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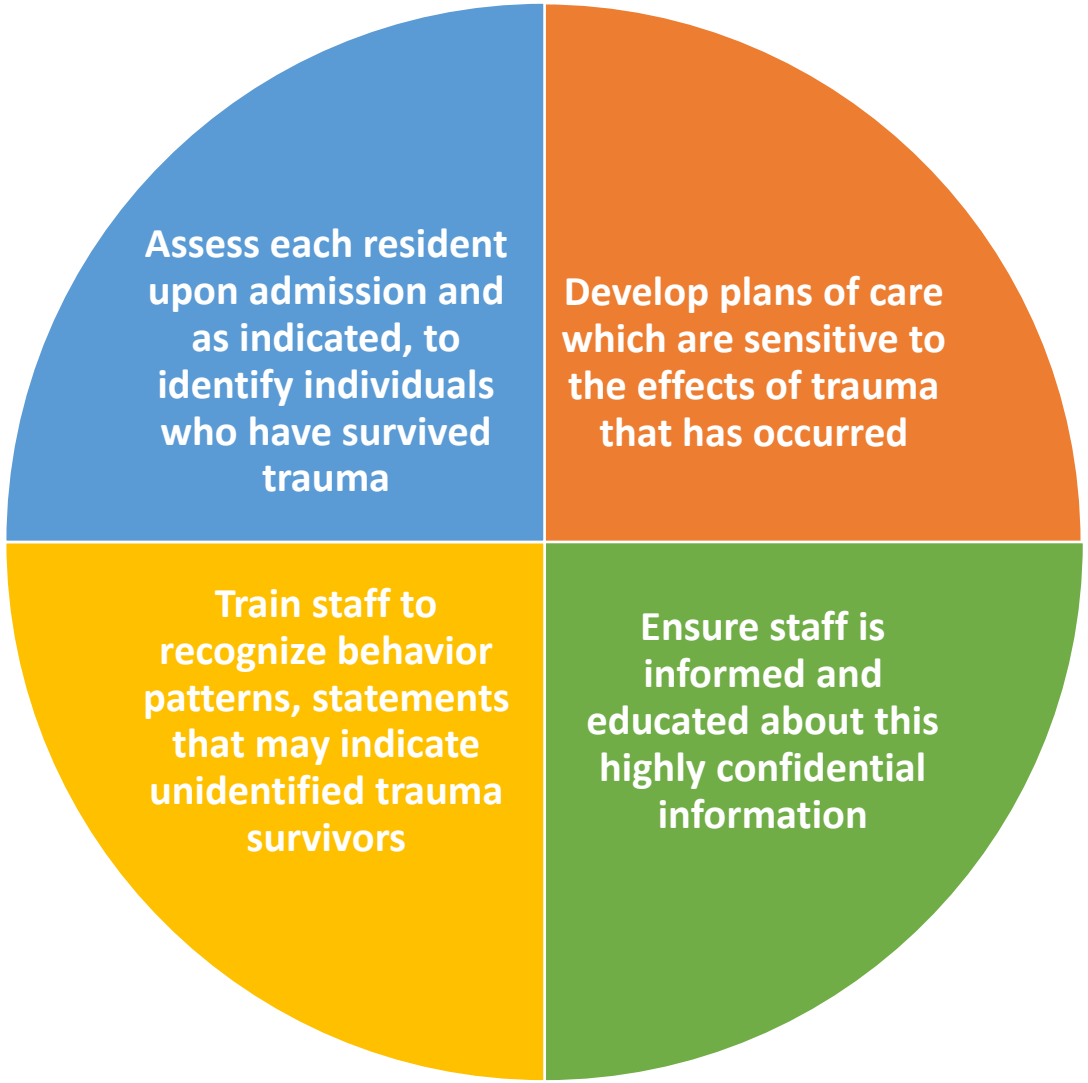
Trauma-Informed Care (F699)



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Cultural Competence (F699)

- Culture is a reflection of how individuals view the world; staff must be trained to respect diversity in beliefs and customs and center care around an individual's expression of culture, nationality, gender orientation, and affiliation
- A care plan must identify and address interventions appropriate for person-centered care of individuals with cultural considerations
- This includes using a language which is best understood by the resident

Sufficient Staff (F725)

- States are rapidly working on staffing ratios, rather than just PPDs
- Determination of deficient staffing level centers around outcomes (pressure wounds, weight loss, falls, etc.), as well as accidents involving staff and residents
- Facilities should consider adopting safe patient handling standards and training programs to reduce injuries to both staff and residents

Behavioral Health Services (F740)

- Facility assessment should identify behavioral characteristics of the facility resident population and use the information to address staffing levels, resources needed, and training required
- Policy should now state that individuals with behaviors, SUDs are present in the facility and will be addressed through staffing, care plans, and effective interventions
- Facilities should carefully track behavior changes and properly report those that impact PASRR assessments
- Care planning with frequent reviews of interventions for effectiveness are essential with mental health and other behaviorally centered residents

Psychotropic Medications (F758)

- Non-medication interventions should be attempted, documented, and tracked for effectiveness prior to use of a psychotropic medication
- All psychotropic medications should be reduced to the lowest dose possible to improve the resident's level of function
- Other drugs used in place of traditional psychotropics (e.g., neuroleptics) should be treated as psychotropics with gradual dose reductions used per the regulations

Schizophrenia

Use this diagnosis with high level of awareness that:

- The diagnosis must be made and verified by a medical/psychiatric professional
- Should not be “new” at the same time a psychoactive medication is prescribed unless testing and data fully support
- Can never be used to support the use of a medication without adequate support

Resident Rights and Person-Centered Care

- F557—Managing potential substance use/possession
- F561—Self-determination: inform of smoking policy changes (see also F689—vaping)
- F563—Right to receive visitors
- F582—Beneficiary notification
- F604—Use of bed rails
- F606—Screening employees for potential to abuse
- F656—Plans of care: include language of cultural competency and trauma-informed care
- F679—Activities: must reflect person-centered care

Resident Rights and Person-Centered Care (continued)

- F697—Pain management to minimize use of opiates while addressing pain assertively for effectiveness
- F700—Bed rails require failed less-restrictive alternatives and thorough safety assessment
- F712—Frequency of physician visits: specifies a physician visit at least once every 30 days for the first 90 days after admission and at least once every 60 days thereafter
- F847—Requirements if using binding arbitration agreements
- F900 series—Multiple F Tags requiring additional education of staff and basis for use of facility assessment for determining staff development needs

Minimum Data Set (MDS)

Major Changes in 2023

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MDS Changes

- Rules will be implemented in October 2023
- Changes will impact resident care management, documentation requirements, form changes, and payment adjustments
- Be prepared for lots of training, documentation changes, and software adjustments, as this is major reform

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Documentation, Care Planning, and Interventions

- More than ever, a detailed assessment of every resident is required at admission, at least quarterly, and with each change in condition/function
- Assessment data is used by the interdisciplinary team (IDT) to build a care plan based on individual needs and goals of care (person-centered), including interventions that are objective and measurable
- Documentation must support the plan of care for coding to be accurate and fully support a resident's care

Opportunities for Providers

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Assessment

- Current state of regulatory compliance
- A: PREP survey to identify areas of potential vulnerability and noncompliance
- B: ACTION plan to quickly and effectively remediate identified concerns
- C: MONITORING of changes to ensure sustained compliance

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Alignment

- Alignment of operations to regulatory expectations
- Careful and strategic planning based on projected data for workforce and aging population
- Quality, safety, and person-centered care are the focus for SNFs going forward

Strategies

- Strategic positioning of care levels and services, taking into consideration current and projected regulatory environments and limitations
- Revise policies as needed to conform to changes in ROP
- Train staff in changes; include families and residents as appropriate
- Mitigate workforce issues:
  - All staff works to the top of their license
  - Utilize technology where appropriate

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About Health Dimensions Group (HDG)

- HDG is a leading management and consulting firm, providing services to senior living, post-acute, and long-term care providers, as well as hospitals and health systems, across the nation
- Our services include management, strategy, pre-development and pre-opening, operational performance, PACE and value-based transformation, revenue cycle management, financial advisory, and workforce solutions
- Guided by an unwavering commitment to our values of hospitality, stewardship, integrity, respect, and humor, we have served the nation's leading health care organizations for over 20 years

Do you need assistance preparing for these upcoming regulatory changes? HDG can help!
Contact us to learn about our mock survey and other operational performance improvement services

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Questions?

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Thank you for joining us!

Recording and slides available here

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