



## Culture Change Network of Georgia

I long, as does every human being, to be at home wherever I find myself.....Maya Angelou

August 5, 2010

Dr. Donald Berwick  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-2435-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

RE: CMS-2435-P

Dear Dr. Berwick:

On behalf of the Culture Change Network of Georgia, we appreciate the opportunity to comment on the Center for Medicare & Medicaid Services' (CMS) proposed rule 42 CFR Part 488 related to civil money penalties for nursing homes under the Medicare and Medicaid programs. We applaud Congress and the Administration's focus on promoting improvements in the health, safety and overall well-being of nursing home residents. We are pleased to provide input to help strengthen this proposal.

The Culture Change Network of Georgia was founded in 2008. Georgia was the 31<sup>st</sup> state to begin a statewide group to focus on culture change. Our mission is: To promote and foster culture change to improve the quality of life for older Georgians and those closest to them *in all settings* where aging services are delivered. This includes nursing homes, assisted living, adult day, home health, hospice, HUD/affordable housing, and the DD community ~ ***In the place they call home...***

We are working to define culture change; increase awareness; educate; share ideas; and highlight programs and promising practices that can be replicated throughout the state. As the clearinghouse of organizations and providers working on person-centered, long-term care in multiple care settings, we are working to build common knowledge, support, commitment and relationships among those represented, and coordinate with other existing groups that have similar goals and interests.

Our group of advisory partners is comprised of representatives from aging services providers and long-term care services and supports including nursing homes, assisted living, HUD/affordable housing, HCBS, hospice, adult day, and CCRCs. Others advisory partners include staff from government agencies including CMS, Department of Community Health (DCH), Division of

Aging Services (DHS), Office of the State LTC Ombudsman, Georgia Council on Aging, AAAs; organizations including gmcf (Georgia's QIO), Aging Services of Georgia, Alzheimer's Association, GHCA; higher education including GSU, UGA, Emory University; the VA, the disability community, the mental health community, as well as gerontologists and other leaders outside the state of Georgia. We continue to broaden and strengthen our group of advisory partners as we network together to change aging in Georgia. Also, the LANE for Advancing Excellence in Nursing Homes is housed within the Culture Change Network of Georgia.

[Insert paragraph description of your organization here]

We strongly support the Department's overall goal of giving the CMS a more prominent role in directing quality improvement in nursing homes. We urge the Agency to prioritize culture change transformation in long term care settings as a successful quality improvement tool. Comments are organized around incorporating culture change transformation in CMS-led quality improvement initiatives. We recommend three changes to § 488.433 (Civil money penalties: Uses and approval of civil money penalties imposed by CMS) of the proposed rule:

- I. Increase the amount of the federal portion of civil money penalty funds that are directed to CMS from 50 percent to 90 percent;
- II. Promote the federal funding of grant projects in "culture change" in nursing homes as a successful strategy for improving the health, safety and well-being of nursing home residents, leading to overall improvements in nursing home quality; and
- III. Issue specific guidance requiring evidence-based culture change to be incorporated into any quality improvement activities supported by civil money penalty funds

We describe each specific recommendation below.

#### **I. Increase the amount of civil money penalty funds directed to CMS**

In accordance with § 6111 of the Affordable Care Act, the proposed rule would set aside a portion of civil money penalty funds to support activities that benefit nursing home residents. We urge the Agency to revise the proposed rule to increase the amount of civil money penalty funds that are directed to CMS for activities to protect or improve the quality of care for residents from 50 percent to 90 percent. We believe this division of funds more accurately reflects the focus and importance given to improving the health and well being of nursing home residents by Congress and the Administration, which is reflected in the Affordable Care Act.

As written, the proposed rule states: *Fifty percent of the collected civil money penalty applicable to Title XVIII will be deposited with the Department of Treasury in accordance with § 488.422.*

We urge the Department to revise this language to say: Ten percent of the collected civil money penalty applicable to Title XVIII will be deposited with the Department of Treasury in accordance with § 488.422.

## **II. Promote culture change as a successful strategy for improving nursing home quality**

“Culture change” is the common name given to the national movement for the transformation of older adult services, based on person-directed values and practices where the voices of elders and those working with them are considered and respected. Culture change transformation may require changes in organization practices, physical environments, relationships at all levels and workforce models. Culture change transformation leads to better health outcomes for consumers and direct care workers, and results in overall quality improvements in nursing home care.

We strongly encourage the Department to revise the proposed rule to promote evidence-based culture change in nursing homes as a strategy to improve nursing home quality. As written the proposed rule states: *The remaining collected civil money penalty funds may not be used for survey and certification operations but must be used entirely for activities that protect or improve the quality of care for residents.*

We recommend revising the language to say: The remaining collected civil money penalty funds may not be used for survey and certification operations but must be used entirely for evidence-based culture change transformation, and other activities that protect or improve the quality of care for residents.

In the Affordable Care Act and in other places, Congress and the Administration have signaled strong support of culture change in long term care. For example, Section 6114 of the Affordable Care Act includes a pilot project to develop best practices for nursing homes that are involved in the culture change movement. In order to advance important quality improvement initiatives we must ensure that funding streams are available. Section 6114 includes language concerning development of funding streams for culture change. Civil money penalty funds seem to be ideal for fulfilling this portion of the legislative mandate. Directing additional funds to CMS and promoting evidence-based culture change initiatives is consistent with Congress and the Administration’s position, and will help to transform long term care and spur real improvements in quality and outcomes for residents.

## **III. Issue specific guidance requiring culture change to be incorporated into any quality improvement activities supported by civil money penalty funds**

The proposed rule articulates several approved uses for civil money penalties and reiterates that CMS must approve other uses of these funds. We urge CMS to include a requirement that approval of quality improvement activities is dependent upon the inclusion of evidence-based culture change initiatives. We believe this will encourage more nursing homes to consider adopting culture change initiatives as they take steps to modernize and improve care for residents.

Specifically, we recommend creating a new subsection (f) in §488.433 where approved uses of civil money funds are described, to include:

- (f) *Changes to organization practices, physical environments, relationships at all levels and workforce models that are evidence-based and consistent with the culture change movement.*

As previously stated, culture change transformation leads to better outcomes for nursing home residents and direct care workers, which contribute to overall quality improvement. This requirement is consistent with Congress and the Administration's support of culture change and the priority given to nursing home quality initiatives. This is also consistent with the recommendations above, which encourage the Department to promote culture change as a means of quality improvement.

Again, we thank you for the opportunity to comment on the proposed notice. We offer our expertise and additional insight as you proceed and reiterate the importance of promoting effective strategies, like culture change, as we work towards improving nursing home care and quality for residents. If you wish to discuss any of these comments further, please do not hesitate to contact us.

Sincerely,