

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: FLORIDA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Survey and Certification Education Program

The State has in effect the following survey and certification periodic educational program for the staff and residents (and their representatives) of nursing facilities in order to present current regulations, procedures, and policies.

The state agency participates with the major provider associations in conducting workshops and information sessions at several locations (usually 6) around the state. These sessions offer the providers, resident representatives, and advocates the opportunity to receive up to date information on regulations, survey criteria, and policies. The participation by providers and resident representatives produces a valuable exchange of ideas and perspectives.

TN No. 92-51
Supersedes
TN No. NEW

Approval Date JUN 24 1993

Effective Date 10/1/92

HCFA ID: _____

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: FLORIDA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for the Investigation of Allegations of Resident Neglect
and Abuse and Misappropriation of Resident Property

The State has in effect the following process for the receipt and timely review, and investigation of allegations of neglect, abuse, and misappropriation of resident property by a nurse aide or a resident in a nursing facility or by another individual used by the nursing facility to provide services to residents.

Complaints may originate from a variety of sources, including anonymous telephone calls and letters from complainants that are received at the Central Complaint Unit under the Office of External Affairs, Consumer Services; referrals from the Division of Health Quality Assurance Area Offices; referrals from other governmental agencies; referrals from HCFA. Complaints are reviewed, logged, and tracked through the centralized complaint unit. Complaints, including misappropriation of residents property, are assigned to the respective Division of Health Quality Assurance Area Office for investigation. Upon the Area Office receipt of a complaint from the Central Complaint Unit, a surveyor is assigned to conduct an unannounced investigation of the complaint. An investigative report of findings is completed and forwarded to the Central Complaint Unit. The Central Complaint Unit staff review the report for compliance with state and federal reporting requirements. Data for certified facilities are entered into the federal data system. In the event a facility is cited for a violation of regulations, a follow-up visit will be conducted to ascertain that the signed plan of correction is carried out.

As required under Chapter 415, Florida Statutes, Adult Protective Services Act, allegations that allege abuse, neglect, or exploitation are referred to the Florida Protective Services System. Protective Services staff respond to allegations of abuse and neglect within 24 hours of receipt of the complaint. However, staff respond immediately, e. g., to allegations of severe physical abuse of a life threatening manor, sexual abuse that occurred within the last 72 hours, or if the perpetrator of sexual abuse is still at the facility. The investigative process provides ample time for the alleged person to respond to allegations or protest findings through an administrative hearing.

TN No. 92-51
Supersedes
TN No. NEW

Effective Date 10/1/92

Approval Date JUN 24 1993

Revised Submission 6/2/93

When a report is closed as proposed confirmed, the alleged perpetrator is sent a certified letter informing him of this classification and explaining his rights of appeal and review. If the alleged perpetrator believes that an error has been made, or he feels that he is not responsible for the abuse, neglect, or exploitation described in the report, he may:

- * submit a statement or rebuttal letter explaining the incident and why he believes the report is in error. This statement or rebuttal letter is not the same as a request to amend or expunge the report but will be placed in the file to become part of the record; or
- * request, within 60 days of receipt of the notification letter, that the department amend or expunge the report.

The department has 30 days from receipt of the request to conduct a review of the investigation and act on the alleged perpetrator's request to amend or expunge the report. The alleged perpetrator is notified by mail of the department's decision.

If the department fails to act within the 30 days allowed, or denies the request for amendment or expunction, the alleged perpetrator then has 30 days to request an administrative hearing. The request for an administrative hearing is accomplished by filing a petition.

The hearing officer recommends that the department either amend or expunge the report or reclassify the report as confirmed. A final order informing the alleged perpetrator of any changes made to the report as a result of the hearing is then issued.

If the alleged perpetrator receives the classification letter and then does nothing, his right to appeal the classification of the report is barred and the report is automatically classified as confirmed. This means that the alleged perpetrator does not contest the department's right to maintain the report findings as stated, including the alleged perpetrator's identification as a perpetrator. A perpetrator in a confirmed report of abuse, neglect, or exploitation may be disqualified from working in certain positions of trust, including working with children, disabled adults, or aged persons.

In accordance with the provisions of Chapter 415, Florida Statutes, if the certificate of a nurse aide is suspended as a result of abused, neglected, or misappropriation of the property of a resident, the aide is notified in writing and the name of that individual is submitted to the Department of Education for appropriate action. Pursuant to section 400.211, Florida Statutes, the Department of Education notes that on the nurse aide registry. The names of other individuals whose licenses have been suspended as a result of abused, neglected, or misappropriation of a resident's property are submitted to the appropriate licensure authority such as the Department of Professional Regulation.

TN No. 92-51
Supersedes
TN No. NEW

Effective Date 10/1/92
Approval Date JUN 24 1993

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: FLORIDA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Procedures for the Scheduling and Conduct of Standard Surveys

The State has in effect the following procedures for the scheduling and conduct of standard surveys to assure that it has taken all reasonable steps to avoid giving notice.

Area offices establish schedules for surveys which will permit the team to conduct the review within the 9 to 15 month window (with a 12 month statewide average) established by the Health Care Financing Administration for such surveys. Survey staff in the area offices are instructed that schedule information is not to be provided to facility staff and additionally are advised that a 5 day suspension will be imposed on any employee who is found to have disclosed schedule information.

TN No. 92-51
Supersedes
TN No. NEW

Effective Date 10/1/92
Approval Date JUN 24 1993

Revised Submission 6/2/93

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: FLORIDA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Programs to Measure and Reduce Inconsistency

The State has in effect the following programs to measure and reduce inconsistency in the application of survey results among surveyors.

The survey results are entered into the federal data system which permits a data recapitulation for the purpose of identifying areas in which major discrepancies occur. Results from this analysis may be incorporated into the curriculum for the area office inservice training. Area survey staff also receive HCFA transmittal letters, state agency policy clarifications related to issues raised in the field, federal regional training based on OBRA requirements, and training based on the federal Surveyor Minimum Qualifications Test (SMQT). All of these inservice training activities build on the Basic Surveyor Training by HCFA which is attended by all survey staff to insure that basic information and approaches to the survey task are consistent. Statewide surveyor training emphasizes consistency in the identification and description of survey issues.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: FLORIDA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for Investigations of Complaints and Monitoring

The State has in effect the following process for investigating complaints of violations of requirements by nursing facilities and monitors onsite on a regular, as needed basis, a nursing facility's compliance with the requirements of subsection (b), (c), and (d) for the following reasons:

- (i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;
- (ii) the facility was previously found not to be in compliance with such requirements and has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or
- (iii) the State has reason to question the compliance of the facility with such requirements.

In the event that a facility is investigated for a complaint and found to have a situation that warrants on-site monitoring, the area office of the Office of Licensure and Certification (Agency for Health Care Administration) is assigned responsibility for monitoring. This monitoring is done in a coordinated effort with assistance from other state agencies and ombudsman councils.