

CMS Subcommittee September 5, 2008

Proposal

The subcommittee by consensus agreed that the best solution to the problem of the dual reporting that is currently required of licensed and certified nursing homes and boarding care homes would be an electronic report sent by the facility to a centralized entity that would automatically be shared with appropriate agencies or entities in a secure manner. One example might be an electronic report to OHFC with an automatic notice to the CEP for the particular county, so that the CEP could open the report and determine if the county needed to intervene (e.g., emergency protective services). This approach could take any of several configurations, but the subcommittee agreed that even if this approach were enacted in the 2009 legislative session, the implementation would take resources and time.

Consequently, the subcommittee recommends a short-term fix that will alleviate (but not solve) the problem of dual reporting. This short-term proposal is to permit certified nursing homes and boarding care homes to submit their reports to the CEP electronically. MDH would need to modify its electronic reporting system by adding the few fields needed by the CEP or the SSIS system but not currently included.

Basically, the facility could print out the report it sends electronically to OHFC and then fax it to the CEP. The CEP could review the fax, place a follow-up call for additional information, or intervene if appropriate. If the CEP determined that MDH (OHFC) was the lead agency, the CEP would not send anything to OHFC because OHFC would already have the same report from the facility.

We think this short-term fix has these benefits:

1. Maintains the current level of protections for residents.
2. Reduces the waste and inefficiency in the current dual reporting for certified nursing homes and boarding care homes.
3. Reduces the time spent by county staff on oral reports from these certified facilities.
4. Reduces the burden on OHFC of having to reconcile reports from facilities and the CEPs to determine whether they involve the same incident or complaint.
5. Eliminates the need for facilities to determine which reporting destination is appropriate for the particular incident.

The drawbacks are:

1. Burden is still on facility to send a copy of the report to the CEP.
2. Possibility of a facility failure to send the report to the CEP may leave the resident at risk.

Proposed Statutory Change to Address Dual Reporting

Subd. 4. **Reporting.** A mandated reporter shall immediately make an oral report to the common entry point. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports. To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment. A mandated reporter may disclose not public data, as defined in section [13.02](#), and medical records under sections [144.291](#) to [144.298](#), to the extent necessary to comply with this subdivision.

Subd. 4a. Reporting by certified nursing homes and boarding care homes. A boarding care home that is licensed under sections 144.50 to 144.58 and certified under Title 19 of the Social Security Act, a nursing home that is licensed under section 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, and a hospital that is licensed under sections 144.50 to 144.58 and has swing beds certified under the Code of Federal Regulations, title 42, section 482.66 may submit a report electronically to the common entry point, rather than submitting an oral report. The report may be a duplicate of the initial report the facility submits electronically to the Minnesota department of health to comply with the reporting requirements under the Code of Federal Regulations, Title 42, section 483.13. The commissioner of health may modify its requirements for reporting to include items required under subd. 4 that are not currently included on its electronic reporting form.

Subd. 4b. **Internal reporting of maltreatment.** (a) Each facility shall establish and enforce an ongoing written procedure in compliance with applicable licensing rules to ensure that all cases of suspected maltreatment are reported. If a facility has an internal reporting procedure, a mandated reporter may meet the reporting requirements of this section by reporting internally. However, the facility remains responsible for complying with the immediate reporting requirements of this section.

(b) A facility with an internal reporting procedure that receives an internal report by a mandated reporter shall give the mandated reporter a written notice stating whether the facility has reported the incident to the common entry point. The written notice must be provided within two working days and in a manner that protects the confidentiality of the reporter.

(c) The written response to the mandated reporter shall note that if the mandated reporter is not satisfied with the action taken by the facility on whether to report the incident to the common entry point, then the mandated reporter may report externally.

(d) A facility may not prohibit a mandated reporter from reporting externally, and a facility is prohibited from retaliating against a mandated reporter who reports an incident to the common entry point in good faith. The written notice by the facility must inform the mandated reporter of this protection from retaliatory measures by the facility against the mandated reporter for reporting externally.