

Revision: HCFA-PM-92-3  
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REVISED  
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OMB No.:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Kentucky

ELIGIBILITY CONDITIONS AND REQUIREMENTS

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Survey and Certification Education Program

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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.

State staff participate in regular and periodic provider training events. This participation includes serving as presenters and panel members as well as conducting sessions on regulations changes and implementation. Provider representatives include both administration and direct case staff. State staff also participate in resident counsel meetings and will be providing other training for facility residents and/or responsible parties as time and staff permit.

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ELIGIBILITY CONDITIONS AND REQUIREMENTS

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

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

All allegations of abuse, neglect and misappropriation of resident property are immediately investigated by Division of Licensing and Regulation and Department for Social Services in a joint effort. During this investigation the accused individual is advised of the alleged incident. Prior to a final determination of substantiation the accused individual is afforded the opportunity to appeal. All substantiated investigations are subject to the appropriate appeal process. Substantiated cases of Nurse Aide abuse, neglect and/or misappropriation are entered on a centralized registry maintained by the State Survey Agency. The accused individual and all appropriate authorities are notified of the final determination and action taken.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Kentucky

ELIGIBILITY CONDITIONS AND REQUIREMENTS

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Procedures for Scheduling and Conduct of Standard Surveys

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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.

In addition to federal procedures, the Division of Licensing and Regulation is prohibited by state law from giving any advance notice of long-term care facility surveys. Surveys to be conducted in a given month are sent to our regional offices. Schedulers in regional offices do not release schedules to staff until approximately one week prior to survey. Master schedules in regional offices are closely guarded.

Kentucky uses a flexible survey schedule where some facilities are surveyed in ranges of 9 to 15 months. Survey schedules are also based on performance in previous surveys and the number of complaints made against a facility.

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Programs to Measure and Reduce Inconsistency

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

Annual training sponsored by Licensing and Regulation plus quarterly in-service training in Regional Offices on specific problem areas that need addressing for statewide consistency in the application of the survey process. Basic training and other specialized courses are provided by HCFA. Also, all survey packets received in Central Office are reviewed by compliance analysts.

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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.

Refer to Attachment 4.40-C

All allegations of facility violations are investigated by the Division of Licensing and Regulation. All deficiencies resulting in Level A non-compliance are followed up for correction.

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**Method for establishing Employee Education  
Of False Claim Policies and Procedures**

1. The Department will query the Decision Support System (DSS) for FFY 2006 Fee-for-Service and Encounter Data as of January 1, 2007 to identify entities for the purposes of section 6032 of the Deficit Reduction Act of 2005 with distinct Federal Employer Identification Number (FEIN) receiving over \$5,000,000.
2. Each entity from the query in step 1, will be sent a provider letter reminding them that their provider agreement requires them to comply with all applicable State and Federal laws and advising them that the Deficit Reduction Act of 2005 section 6032 contains a new requirement that must be met. Any entity paid through the Medicaid FMAP signs the aforementioned provider agreements in order to receive a provider number and the ability to bill. This includes Passport, Transportation Brokers, and other state agencies. The letter will include a form that must be signed and returned certifying that they meet the following requirements from section 1902(a)(68) of the Social Security Act:
  - A. Establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs(as defined in section 1128B(f));
  - B. include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and
  - C. include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse;
3. The entities will attach relevant documents in meeting the requirements from 1902(a)(68) of the Social Security Act. Relevant documents include but are not limited to policy memos, employee handbook, and any document that demonstrates how the entity satisfies the requirements. Responses will be due to the Department by September 1, 2007.
4. The Department will evaluate the entities responses, and certify the response as valid or state the reasons the conditions were not met in a response back to the entity by December 31, 2007.
5. For future years beginning with FFY 2009, a reassessment will occur at least every three years to ensure compliance with 1902(a)(68) of the Social Security Act. The following deadlines will apply in the given year:
  - A. Un-duplicated providers from the previous FFY's DSS query meeting the same criteria in step 1 as of January 1 following the end of the respective FFY will be sent the entity letters from step 2 by March 31 of the respective year;
  - B. Entity response to the letter will be due by June 30 of the respective year; and
  - C. The Department will send the response to the entity by September 30 of the respective year. The Department letter will validate the entities response' or state the reasons the conditions were not met.