

the management report

an update for home care providers produced by the home care association of colorado

SPRING 2002

CMS Deputy Administrator Hears Home Care Issues; Says Relief Is On the Way

When the Deputy Administrator of the Centers for Medicare and Medicaid Services (CMS) came to Denver for the first time since taking the job a year ago, home care's issues were on front and center. CMS' Open Door Listening Session on March 20th gave Ruben King-Shaw an opportunity to hear providers talk about how low reimbursement, ill-designed policies and excessive regulatory burdens are denying access to quality health care for Medicare and Medicaid beneficiaries.

HCAC board member Crystal Day, Rehab and VNA, Greeley, joined four physicians, three hospital administrators and two nursing home administrators in presenting testimony on the barriers and issues that are negatively impacting the provision of quality health care to Medicare/Medicaid's frail, elderly and vulnerable patients.

Day spoke on the excessive burdens of OASIS data collection, the financial burden of bundling supplies within the home health reimbursement; out-of-date, obsolete rules such as cost reports; and Colorado Medicaid's contract nurse and forced delegation proposals. Regarding OASIS, she noted that although agencies are required to complete the assessment at numerous times during the care, only the information at the start of care and discharge is being used in outcome reports. She said that OASIS data collection is the single most significant contributing factor that caregivers cite when they leave the profession. She recommended that CMS:

1. Limit OASIS requirements to Medicare clients only.
2. Develop one standard form for agencies to use.

Continued...

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www.hcaconline.org

- **See photos of state legislators receiving HCAC awards
- **Browse through exhibits from Annual Convention 2001
- **Read article on "The Miracles of Homecare" by Dan Nicholson, HCAC President
- **Make use of PR and media templates
- **Browse updated member information (please let us know if your organization has a web site and we will link to it through the member section)
- **Get updated details on HCAC's education programs

The management report is published in January, April, July and October by the Home Care Association of Colorado. Subscriptions are included in association dues. Deadline for the receipt of news items, classified advertising copy and sponsorship orders is the 10th of the month prior to publication. Submit to the Editor, *the management report*, 7853 East Arapahoe Court, #2100, Englewood, CO 80112-1361. Rates are available from association headquarters.

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Ellen Caruso

3. Allow any professional caregiver to complete the OASIS.
4. Increase time frames for completion and lock-in of OASIS data.
5. Allow agencies to complete OASIS during the next scheduled billable visit.
6. Reimburse agencies for actual cost of the OASIS paperwork burden.

During the question and answer session at the end of the evening, HCAC Executive Director Ellen Caruso told King-Shaw that more than 1/3 of the certified home health agencies in Colorado have folded and more would follow if the industry could not attract and retain nurses to provide the care. She asked King-Shaw if there is any relief in sight for elimination of the onerous and burdensome paperwork for home health nurses. King-Shaw responded flatly "Yes – and very shortly because this is a high priority for the (Bush) Administration."

Coordinating the session were Region VIII CMS officials Alex Trujillo, Regional Administrator; Spencer Ericson, Deputy Administrator; and Program Coordinators Cindy Myers and Penny Finnegan. All are headquartered in Denver.

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February 22, 2002

CMS 2 ½ hour satellite broadcast

introducing Outcome Based Quality Improvement Reports:

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**ORDER YOUR OBQI AUDIO CONFERENCE TAPE
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HCAC hosted a wonderful 1 ½ hour audio conference on March 14th in cooperation with Outcome Concept Systems (OCS)

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 - ◆ The relationship between utilization and outcomes in home care
 - ◆ The demographic, organizational and clinical influences on agency performance in PPS
 - ◆ Characteristics of successful organizations
- (see enclosed order form)

**HCAC Partners with
OCS and CareWatch**

*It is the
Mission of the
Home Care
Association
of Colorado
to
enhance the
viability of home care
as an integral and
prominent part of
health care delivery.*

The Home Care Association has announced that it has entered into agreements with two nationally known companies to provide HCAC members with preferred pricing for on-line benchmarking and telephony based visit management services.

According to HCAC Board Member Carol Bartley who chairs the association's Business Development Committee, **Outcome Concept Systems (OCS) will offer a discounted price to HCAC members to purchase OCS-OASIS™, an excellent performance improvement tool, plus the ability to compare their experience under the new Medicare prospective payment system with the outcomes and practices of other agencies in the state and nationwide.** Participating agencies will receive comparisons against HCAC-specific norms, desktop reporting, training, and compliance with either JCAHO or CHAP accreditation requirements.

Bartley said the partnership with CareWatch, Inc. will offer HCAC members a discount on the purchase of a telephony based visit management system that eliminates paperwork, increases accuracy, and enhances compliance with regulatory audits.

Founded in 1992 by a team of home care professionals, OCS is a Seattle-based company focused on providing home care organizations with sophisticated, yet easy to use, information solutions for OBQI and Performance Improvement. A market-driven organization, with a backbone of outstanding client support, OCS is the premier quality management vendor for home health, hospice, infusion and private duty organizations. Having amassed the nation's largest home health benchmark data warehouse and developed the market's only "drill-down" desktop reporting program, OCS is endorsed by trade associations throughout the country and recommended by major MIS vendors. Please see the enclosed flyer that describes the OCS system. Contact Heather Rooney, Director of Marketing, at (888) 325-3396 or at hearoo@ocsy.com.

From its corporate facilities in Norcross, Ga., CareWatch provides state-of-the-art telephony services to home health agencies across the U.S. By combining user friendly, sophisticated data collection techniques, extensive voice messaging features, near real time data delivery and comprehensive management reporting, CareWatch is an extremely powerful management tool for home health agencies. All of the data collected by CareWatch can be integrated into billing, payroll and scheduling systems, eliminating costly after-the-fact key punch requirements. For additional information, see the enclosed flyer which further describes how CareWatch works and the benefits of the system. Contact Rick Drummond, Director of Sales and Marketing, at (770) 409-9084 or at Drummond@carewatch.com. Both companies will have exhibit booths at HCAC's Annual Convention on May 2-3 in Denver.

**An Editorial:
2002 Legislative Session
Money Driven**

by Ellen Caruso
HCAC Executive Director

"The \$200 million spent on home care services in the state's Medicaid program is certainly fair game for budget slashers, especially those that are not mandated by the federal government..."

**HCAC Monitoring
50 Bills in 2002 Session**

The diminishing state budget has been at the forefront of all discussions at the State Capitol this legislative session and things got worse last month when budget forecasters announced that state government expenses are outpacing income this year by nearly \$1 billion. Since the Colorado Constitution does not allow deficit spending, government agencies are scrambling to cut projects and expenses in the last four months of the year.

How does this affect home care agencies and the clients we serve? The \$200 million spent on home care services in the state's Medicaid program is certainly fair game for budget slashers, especially those that are not mandated by the federal government including big ticket items such as home care allowance and home and community based services. So far, the Governor has kept Medicaid off the chopping block, but individual legislators, interested in finding money for their important constituency projects, have asked where cuts in Medicaid can be made. The axe could fall any day and will be very difficult to stop as "there is no money!"

To make matters worse, the budget for the state's next fiscal year, which begins on July 1st, must be in place in the next several weeks. Because of the TABOR amendment, future state spending is based on the prior year's income and spending. This factor could negatively affect the ability of the legislature to grant base rate or even cost of living increases to home care providers as recommended last year by the 50a Task Force.

This kind of grave budget situation brings home an important point. It is extremely important for home care providers to be in year-round communication with their elected officials (county, state and national) about the good things we do on a daily basis for our ill, frail, elderly and disabled clients. Legislators are home during the summer and fall months. HCAC staff and leaders are eager to help you make these contacts. Please mark your calendar for June 1, 2002, to take your individual action.

HCAC's Legislative/Advocacy Council has monitored some 50 pieces of proposed legislation that have come before legislators in the current session of the Colorado General Assembly. All bills can be accessed at www.state.co.us/gov_dir/stateleg.html.

HCAC is actively lobbying the following bills that were recommended by the Legislative Health Care Task Force interim committee:

HB 1010: Quality Care to Seniors (Rep. Stafford/Sen. Hagedorn) – Amended to address new admission policies for state-supported nursing

Continued...

CHECK OUT THE WEB TO IDENTIFY YOUR ELECTED OFFICIALS

1. Identify your 9-digit zip code: www.usps.com, "find zip code," complete address, city, state and press "process."
2. Visit www.vote-smart.org/index.phtml, "Find your candidates and elected officials," Enter 9-digit zip code, "GO." You will be told your US Senator and Representative and your State Senator and Representative.
3. Then make that all important call.

programs. LPN delegation issue to be further investigated for consensus with nursing association.

SB 22: Elimination of Barriers to Quality Care (Sen. Hernandez/Rep. Mace) - Concerns standards and investigations in nursing homes; prohibits Medical Services Board from requiring attorney at hearings before administrative law judge; prohibits SEP agencies from engaging in prior authorization for long-term care services; prohibits new or increased state mandates on any health care provider without additional reimbursement to cover costs of such mandate.

SB 47: Nurse Licensure Compact (Sen. Hanna/Rep. Witwer) - Directs governor to enter into compacts with other states to allow nurses to have multi-state licensure privilege. (Postponed Indefinitely – Killed)

HB 1027: Case Mix for HCBS and Home Health (Rep. Romanoff/Sen. Hernandez) - Authorizes 2-year pilot to evaluate budget neutral case mix system for home health services; authorizes feasibility study of case mix system for HCBS Homemaker/PCP/ACF services if 50% match from private or public sources received and if feasible, authorizes 2-year pilot. HCAC supports this bill.

HB 1029: Expand PACE Program for Elderly (Rep. Clapp/Sen. Hanna) - Authorizes study to identify viable communities that may support PACE program sites and to develop such sites with reimbursement levels set at 95% of cost of nursing home services. Amended to allow SEPs to become educated about PACE programs.

SB 27: Elderly Blind Disabled In-Home Support Services Program (Sen. Hernandez/Rep. Stafford) - Adds self-directed in-home support services as an option for eligible persons who receive HCBS services and specifies that certain professional licensing requirements do not apply to persons directly employed by agencies that choose to be in-home support service agencies. Requires in-home support service agencies to provide 24-hour back up services and limits how such an agency can discontinue services. Changes HCBS comparison to nursing facility costs from individual basis to aggregate requirement.

HB 1039: Consumer-Directed Care Pilot for Elderly (Rep. Clapp/Sen. Chlouber) - Creates consumer-directed care pilot program for the elderly and specifics SEPs as responsible for consumer accounts. HCAC testified with many concerns.

Joint Resolution 1003: Long Term Care Insurance Awareness – Encourages purchase of private long-term care insurance policies.

HCAC has actively lobbied the following bills that were recommended by the Legislative Audit Committee:

HB 1198: Intermediate Sanctions (Rep. Vigil/Sen. Taylor) – Allows Department of Health Care Policy & Financing to penalize home care agencies incrementally rather than only through decertification

HB 1127: Appropriate Service Limits (Rep. Vigil/ Sen. Anderson) – Brings HCBS statute into compliance with HCBS waiver by aggregating service limits.

Other bills:

HB 1090: Study of Medication Administration by Nurse Aides (Rep. Tochtrop/Sen. Fitz-Gerald) Authorizes the appointment of an advisory committee to study the administration of medications by certified nurse aides working in nursing facilities and home health agencies.

HB 1353: Retroactive Adjustment of Health Care Claims (Rep. Mitchell/Sen. Hanna) Tightens regulations on retroactive adjustment of health care claims.

SB 13: Prompt Payment of Health Insurance Claims (Sen. Isgar/ Rep. Tochtrop) Tightens prompt payment requirements.

HCAC Members Submit 50a Cost Reports

Preliminary results of the 50a cost report surveys indicate that home care agencies have passed through the required amount of the July 1, 2001 rate increases to personal care providers and home health aides. Only five home health agencies and three personal care providers did not submit cost reports by the required deadline and had their rates rolled back to fiscal year 2001-2002 fee schedule. None of the agencies are HCAC members.

Agencies are reminded that the Legislature mandated that cost reports be submitted three times during this fiscal year: by October 31, 2001, for the July 1, 2000 to June 30, 2001 baseline report and the period including July 1 to September 30, 2001; by January 31, 2002 for the period including October 1 to December 31, 2001; and April 30, 2002 for the period including January 1 to March 31, 2002. The cost report forms can be accessed at HCAC's website: www.hcaonline.org.

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Three Members of Colorado's Congressional Delegation Sign on to Eliminate 15% Cut

Three down, and five to go. HCAC had reason to celebrate when U.S. Rep. Joel Hefley joined Senators Wayne Allard and Ben Nighthorse Campbell in urging congressional budget writers to eliminate the scheduled 15 percent cut in home health payments in the federal government's fiscal year 2003 budget.

HCAC members are encouraged to call the offices of the remaining five representatives (Diana DeGette; Scott McInnis; Mark Udall; Bob Schaffer; Tom Tancredo) on this issue. Their phone numbers are listed on page 8. Some arguments:

1. The Balanced Budget Act of 1997 (BBA) was intended to reduce Medicare home care expenditures by \$16.1 billion; instead, home care has been cut approximately \$70 billion.
2. BBA also called for an additional cut of 15 percent in Medicare home health expenditures – now scheduled to take effect on 10/1/02. The industry cannot sustain an additional cut of any size.
3. The Medicare Payment Advisory Commission (MedPAC), an advisory body set up by Congress to advise it on Medicare policy, has recently unanimously recommended the elimination of the 15 percent cut; an extension of the 10 percent add on for rural patients for two additional years or through 2005; and that home care agencies be given a full market basket increase in their payments to allow agencies to keep pace with inflation.

Then briefly tell them YOUR story. Tell them what an additional cut in revenue (of any amount) will have on your ability to provide adequate care for your clients. Thank you in advance for making your calls.

Medicare Q&A

Following are answers to some of the most frequently asked questions about the Home Health Medicare program:

Q: Has the State Operations Manual changed recently? How can I access the SOM?

A: Transmittal 29 to the Medicare State Operations Manual was released in February, updating survey definitions related to Federal Monitoring Surveys (Section 4157), describing the Federal Oversight and Support Survey, and adding section 4157.1 to reflect policies related to expectations and responsibilities in the process. The transmittal may be accessed online at www.hcfa.gov/pubforms/transmit/R29SOM.pdf.

Continued..

Congressional Addresses

Sen. Ben Nighthorse Campbell
380 Russell Senate Office Building
Washington, DC 20510
(202) 224-5852; Fax (202) 224-1933

Sen. Wayne Allard
513 Hart Senate Office Building
Washington, DC 20510
(202) 224-5941; Fax (202) 224-6471

Congresswoman Diana DeGette
(1st Congressional District)
1339 Longworth House Office Bldg.
Washington, DC 20515
(202) 225-4431; Fax: (202) 225-5657

Congressman Mark Udall
(2nd Congressional District)
128 Cannon House Office Building
Washington, DC 20515
(202) 225-2161; Fax (202) 226-7840

Congressman Scott McInnis
(3rd Congressional District)
320 Cannon House Office Bldg.
Washington, DC 20515
(202) 225-4761; Fax: (202) 226-0622

Congressman Bob Schaffer
(4th Congressional District)
212 Cannon House Office Building
Washington, DC 20515
(202) 225-4676; Fax (202) 225-5870

Congressman Joel Hefley
(5th Congressional District)
2230 Rayburn House Office Bldg.
Washington, DC 20515
(202) 225-4422; Fax (202) 225-1942

Congressman Tom Tancredo
(6th Congressional District)
1123 Longworth House Office Bldg.
Washington, DC 20515
(202) 225-7882; Fax (202) 226-4623

Q: I'd like to reacquaint myself with local hospital discharge planners. Am I allowed to give each discharge planner a coffee mug with our company logo?

A: Refer to Section 2136 of the Provider Reimbursement Manual (HIM-15) regarding advertising costs. While there is no regulation prohibiting advertising costs, some costs will not be paid by Medicare (see below). The manual distinguishes between 1) activities involving professional contacts (i.e. hospital, physicians) to apprise them of the provider's covered services (in this situation, reasonable costs to produce and distribute informational material may be allowable); and 2) costs of advertising of a general nature designed to invite physicians to utilize a provider's facilities in their capacity as independent practitioners (not allowable); and 3) costs of advertising to the general public which seeks to increase patient utilization of the provider's facilities (not allowable.)

Regarding costs paid by Medicare, under PPS the disallowance of Medicare costs will have no affect on the agency's reimbursement rate (except through some later rebasing of general rates.) However, another issue relates to the application of the anti-kickback laws when an agency gives something of value to a referral source. Technically, the coffee mug is "compensation" to the party in a position to refer patients. The agency may even give the mug with the intent to induce referrals. The question remains, because of the limited value of the coffee mug, whether the Office of Inspector General will consider the gift to be a kickback worthy of action.

Q: How do I access the find the current MSA schedule?

A: <http://www.access.gpo.gov/nara> (Choose the date of publication in the Federal Register: July 3, 2001; Departments are listed alphabetically; Scroll to Health Care Finance Administration; Scroll to Medicare: Home Health Agency PPS Update; Click and you will be brought to pages 35253-35260.

Q: Has the expansion of the homebound definition to allow for attendance at licensed adult day care programs had any impact on the federal budget due to increased utilization of home care?

A: Based on informal responses from home care companies across the U.S., it appears there has been minimal impact, perhaps because some states do not license or certify adult day care and programs are not available in rural areas. (Colorado agencies that have been able to use this expanded definition of homebound are asked to inform HCAC of your experience.)

Continued...

Colorado Home Care Agency Exec Named to Powerful Medicare Advisory Committee

Q: How do I find CMS program memorandums?

A: http://www.hcfa.gov/pubforms/transmit/memos/comm_date_dsc.htm

Q: Can a Medicaid Hospice client receive HCBS services?

A: *The client would need to go through a single entry point for prior authorization for HCBS Personal Care Services. Even if the client is on Medicaid Hospice they could still receive HCBS PCP services as long as they qualify and are not duplicating services.*

Q: How do we find the correct Home Health Prospective Payment System PC Pricer Program (HIPPS) code weights?

A: www.hcfa.gov/medlearn/hipps3f.pdf

Health and Human Services Secretary Tommy G. Thompson has appointed Visiting Nurse Corp. of Colorado President and CEO Judith Sutherland as a member of his new Advisory Committee on Regulatory Reform. Sutherland, who heads up the largest home health agency in Colorado, joins 26 other health care professionals, consumers and doctors in guiding HHS's efforts to streamline unnecessarily burdensome, inefficient regulations that interfere with the quality of health care for Americans.

"When we flood doctors and hospitals with excessive paperwork, patients suffer the consequences," Secretary Thompson said. "This new panel will help us restore common sense to the regulatory process so Americans can receive higher-quality health care without creating needless hassles for doctors and other health care professional and businesses. It is important that doctors spend more time with patients and less on paperwork."

The committee will hold field hearings across the country, one in Denver on May 15-16, to gather insights from consumers, doctors, health-care providers and businesses. The input gathered at these hearings will help the committee develop recommendations both to change specific regulatory requirements and to develop broader reforms.

HCAC members are asked to send ideas on desired reforms to the home health program to HCAC at hcac@assnoffice.com or 7853 E. Arapahoe Court #2100, Englewood, CO 80112. All comments will be forwarded to Sutherland.

**Colorado Legislator
Named Region VIII
HHS Regional
Representative**

Joe Nunez, formerly a state legislator from Colorado Springs, has been named Regional Representative for Region VIII of the U.S. Dept. of Health and Human Services. He will be responsible for guidance and coordination of HHS policies in the six-state region, including Colorado.

In making the appointment, HHS Secretary Tommy Thompson said, "Joe Nunez's tenure in the Colorado state legislature and his personal history of civic duty uniquely arm him with the knowledge of issues affecting that area of the country."

**CLAS Standards
Published**

The Dept. of Health and Human Services has issued a 132-page final report on the "National Standards for Culturally and Linguistically Appropriate Services in Health Care." According to national home care consultant Ann Howard, "Its release by the new team at HHS indicates that the Bush Administration does not intend to pull back the standards, to the disappointment of many health care providers and physicians." Information can be found at <http://www.omhrc.gov/CLAS/>.

According to Howard, providers must:

1. Provide language assistance, bilingual staff/interpreters at no cost to clients, at all points of contact during all hours of operation.
2. Inform clients verbally and in writing, in their preferred language, of the right to language assistance.
3. Assure competence of language assistance (may not use family and friends except upon patient request).
4. Provide materials and post signs in languages of commonly encountered groups in service area.

HHS listed the following guidelines for providers:

1. Ensure clients receive effective, understandable, respectful care, compatible with culture and preferred language.
2. Recruit and promote diverse staff representative of demographics of service area.
3. Provide staff education and training in CLAS.
4. Develop written strategic plan to provide CLAS.
5. Conduct self-assessments by integrating CLAS measures into audits, performance improvement programs, patient satisfaction assessments and outcome measurements.
6. Include data regarding race, ethnicity, languages in client's health records.
7. Maintain demographic profile of community and needs assessment.

Continued...

**TRY THESE SITES
FOR TRANSLATIONS!**

Go to mamma.com
and type in [babelfish](http://babelfish.com).
www.translate.ru/eng/other.asp
Copy and paste English text in
top box, select language you
want, click translate and presto!

HCAC Testifies on Need for Timely Payment and Dispute Resolution by Insurance Carriers

"There is a game - really an outright battle - on paying the provider for the services - many times after the services have been prior authorized..."

8. Develop partnerships with communities and involve them in designing and implementing CLAS.
9. Ensure conflict and grievance processes are culturally and linguistically sensitive.

Further, HHS recommends that the public be provided information about the provider's progress in implementing CLAS standards.

HCAC was at the Colorado Insurance Commissioner's table again in early March, this time testifying on the necessity for the Commissioner to enforce timely payment laws and to implement a process to resolve disputes between providers and carriers.

In her testimony supporting the proposed rule entitled, "Procedure for Provider-Carrier Dispute Resolution," HCAC Executive Director Ellen Caruso said:

"We believe there should be a partnership between the insurance carrier and the provider to provide the necessary medical services that consumers and their employers have paid for in the form health insurance premiums. The problem that leads us to the necessity of a 'dispute resolution' rule has risen to a boiling point. Our providers are experiencing frequent:

- ◆ Delay in payment of legitimate claims by insurance carriers;
- ◆ Extreme hassle over payment of legitimate claims, and
- ◆ Downright denial of legitimate claims, sometimes retroactive to several years ago.

"There is a game – really an outright battle – on paying the provider for the services – many times after the services have been prior authorized. The result?

- ◆ There is much frustration and anger on the part of the providers.
- ◆ Providers are forced to hire additional bill collectors.
- ◆ The cost of health care for all of society has increased – not just for employers who pay the insurance premium – but for the government insurance programs paid by the taxpayer (Medicare and Medicaid)."

Caruso went on to tell what various members have reported to the HCAC office:

1. One insurance company constantly denies or returns claims for review or more information even if the claim is clean.
2. Another insurance company will apply the entire bill to the contracted fee and say the patient is not responsible. When the agency

Continued...

“How many staff people do we need to hire to deal with this process? To collect on our legitimate claims? How can a provider stay in business in this environment? This is a major cause of our country’s ever increasing health care costs.”

Welcome New Members

calls, the carriers says this is an error and they will reprocess. Then they do it again. This will go on three or four times before the claim is paid.

3. Another insurance company takes money back from accounts they over paid but are doing it on different patients resulting in a huge accounting problem.
4. One insurance company prior authorized ten visits and only paid for four. When the agency complained, the insurance clerk said, “Oh, we made a mistake.”

Caruso questioned, “How many staff people do we need to hire to deal with this process? To collect on our legitimate claims? How can a provider stay in business in this environment? This is a major cause of our country’s ever increasing health care costs.”

The Insurance Commissioner will review all comments and either implement or discard the rule in the next several weeks. The rule can be accessed at www.dora.state.co.us/insurance/regs/noh.htm. Scroll to proposed regulation 4-2-23.

Welcome to the following new Provider members who have joined HCAC since the last publication of *the management report*:

- * **Personal Assistance Services of Colorado (PASCO)**,
6015 West 16th Avenue, Lakewood, CO 80214 (303) 233-3122
- * **Volunteers of America Home Health of Western Colorado**,
1585 E. Niagra Road, Montrose, CO 81401 (970) 240-0151
- * **Professional Pediatric Home Care, Inc.**,
P.O. Box 100202, Denver, CO 80250-0202 (303) 759-1342
- * **Touch of Care**, 540 Main Street #111, Delta, CO 81416
(970) 874-6115

Also, welcome to the following new Allied members:

- * **Marlene A. Davis** (home care financial consulting),
182 S. Tilbury Avenue, Castle Rock, CO 80104 (303) 814-0882
- * **CareWatch**, 5555 Oakbrook Parkway #330, Norcross, GA 30093
(770) 409-9084

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HOME CARE ASSOCIATION NEWS

The HCAC Board of Directors has

- ◆ Voted to adopt “United We Stand” resolution calling for state home care associations and the National Association for Home Care to cooperate in joint products, activities and services.
- ◆ Appointed **Rhonda Ward** to a vacancy on the HCAC Board of Directors. Ward is Quality and Operations Director at Centura Home Care and Hospice, with headquarters in Denver.
- ◆ Re-appointed **Sue Brown** to the board under her employment as director of the new community home care agency in Grand Junction.
- ◆ Extended **Carol Bartley**’s board position until May 1, 2002.

* * *

Peggy Waldon, Best Home Care, Denver, has been appointed to join **Crystal Day**, Rehab and VNA, Greeley, as co-chair of HCAC’s Reimbursement/Regulatory Council. Waldon replaces **Marlene Davis** who has formed a new home care consulting company and is now an Allied member of HCAC.

HCAC and NAHC Co-Market Four Products

HCAC and the National Association for Home Care will cooperatively market four products to be offered to members of the two associations at discounted prices:

Language Line Services – offers language interpretation services through telephonic and written mediums covering the most widely used languages in the world. Language Line provides over-the-phone interpretation and document translation in more than 140 languages, 24 hours a day, seven days a week, 365 days a year. HCAC/NAHC members are waived of the one-time only start up fee and the minimum monthly usage fee of \$50. Usage is billed in one-minute increments and price is based on the language requested and the time of day. To find out more about over-the-phone interpretation and Language Line Services, visit www.LanguageLine.com. To open your account, please contact Ed Cavazos at (877) 537-9775.

“48 Proven Steps to Successfully Market Your Home Care Services” – HCAC members may purchase this book published in 2001 at a 15 percent discount.

“The HIPAA Privacy Rule: Compliance Resources for Home Care” – HCAC members may purchase this book published in 2002 at a 15 percent discount off the customary charge of \$350.

“How to Market and Deliver Legendary Service, Establishing the Gold Standard in Quality Home Care” – HCAC members may purchase this book published in 2001 at a 15 percent discount.

Please e-mail book orders to hcac@assnoffice.com or fax to (303) 694-4869.

LETTERS

"Because of the Association's involvement in the formation and recommendations of the 50a Task Force and the strength of our lobbying team we received last year one of the largest ever raises in the HCBS reimbursement rate..."

What Does HCAC Do for Homemaker/PCP Agencies?

I am writing to respond to questions posed by a prospective member wanting more information regarding how the Home Care Association of Colorado represents agencies that do only Homemaking and Personal Care. I am the co-owner of an HM/PCP-only agency in Delta, Colo. I am also on the HCAC Board of Directors and have been representing our kind of agencies at HCAC for many years.

Just a few of the important things that HCAC has done for HM/PCP agencies:

- 1) I was an HCAC representative on the state's Medicaid Norms Committee three years ago and, along with other members, was able to bring some common sense to this very deadly issue. The Association (meaning we members) lobbied the Medical Services Board and defeated implementation at that level, an unprecedented move by the Board. Although norms are now used as guidelines for the SEPs, nothing has ever been done by the state to officially implement and enforce these very unreasonable expectations.
- 2) Because of the Association's involvement in the formation and recommendations of the 50a Task Force and the strength of our lobbying team we received last year one of the largest ever raises in the HCBS reimbursement rate. I sit on the state committee designing our cost report form and have worked hard to make it a document that reflects our agencies' needs.
- 3) My husband Bob is on the HCAC lobbying team and worked for nine years to change the HCBS reimbursement for family providers. Finally last year Rep. Vigil's bill passed changing the rate from \$13 per day to the current rate for 444 units (hours) per year. While this is a small step it has had a great impact on our being able to manage our family provider workforce efficiently and impact quality of care. Now HCAC can work on increasing the yearly units to more properly reflect what most family providers actually give in direct care.

As one of many who has given countless hours to ensure our HM/PCP needs are heard, I'm asking that you support these efforts monetarily and by becoming more involved if you feel we are not representing you properly. The HCAC leaders are all volunteers who give many hours and we could always use more help.

— Suzanne K. Hamilton, CSA
co-owner, Adult Home Care Services, Inc., Delta

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**Colorado's Health
Facilities Division
Informal Review
Committee Gives Advice**

by Sandra Fragleasso RN, MS
Vice President of Clinical Practice
Visiting Nurse Corporation of
Colorado

"During the Informal Review Committee meeting, a person with a conflict of interest (anyone who surveyed agency, anyone involved with agency) does not participate. There is discussion regarding each standard that is being appealed (clarification regarding regulations; opinions regarding value of appeal)."

The Colorado Department of Public Health & Environment's Informal Review Committee consists of representatives from

- Home care
- Allied Jewish Housing
- Senior Housing Options
- CMS
- Christian Living (boarding home and long term care)
- Ombudsman (boarding home, long term care, assisted living facilities)
- Colorado Dept. of Public Health and Environment

The purpose of the committee is to provide an opportunity for an assisted living facility or home care agency to resolve disputes related to survey deficiencies and to determine whether or not deficient practices exist based upon committee review of written documentation submitted by the facility or agency. The committee does not review immediate jeopardy issues; act on requirements beyond regulations (orders signed within x number of days), or make assumptions on what was present/available at the time of survey.

How does the process work? The Health Department notifies an agency of the right to appeal at the time of receiving a deficiency. The agency has ten days to respond by submitting a written request and supporting documentation with the plan of correction. If an agency wishes to have an informal review, the department:

- Blocks all names
- Blocks the agency identity
- Makes copies for members of committee
- Mails copies to committee members for review prior to meeting
- Sends regulations to any committee member who doesn't have prior knowledge of the regulations

During the Informal Review Committee meeting, a person with a conflict of interest (anyone who surveyed agency, anyone involved with agency) does not participate. There is discussion regarding each standard that is being appealed (clarification regarding regulations; opinions regarding value of appeal). There is a vote to retain or eliminate a specific example and there is a vote to retain or eliminate a deficiency. Then recommendations are made to the home care agency and/or surveyors. If there is not enough information, the committee generally votes in favor of agency.

Continued...

**HOME HEALTH PPS
QUESTION &
ANSWERS**

Check out this web site for the latest answers to frequently asked questions:

<http://www.hcfa.gov/medlearn/refhha.htm>

Scroll about half way down the page and click on:

HHPPSQUESTIONS

Open it or save it to a disk

Some issues that have surfaced during the appeals include:

- Documentation appearing to be created after survey
- Extremely rude comments and accusations (by both sides)
- Agencies uninformed regarding Conditions of Participation and/or regulations
- Agencies missing the point of the standard (patient safety, confidentiality, appropriate care, etc.)
- Claims of unfair regulations
- Change in employees/owners that were not submitted to Dept. of Health
- No additional information provided

Some advice to agencies:

- Read instructions closely
- Read deficiencies closely
- Show respect for the surveyors and the survey process
- Direct complaints about surveyors to the surveyor's supervisor
- Provide additional information or clarify misunderstanding
- Ask questions to clarify deficiencies if unclear

(Ed. Note: Sandra Fragleasso gave this presentation to HCAC's Reimbursement & Regulatory Council. It is re-printed here with the author's permission.)

***A Vision
for the
Home Care Association
of Colorado***

*The Home Care Association
of Colorado
creates an environment that supports
home and community care as a primary
choice in health care.*

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**BOARD OF NURSING
SEEKS CNA FOR
NURSE AIDE
ADVISORY
COMMITTEE**

by Dorothy Braun, RN Nurse
Practice Consultant,
Colorado Board of Nursing

The Colorado Board of Nursing (Board) is seeking applications from certified nurse aides to serve on the Nurse Aide Advisory Committee (NAAC). The term will begin July 1, 2002.

Eligibility criteria for the Certified Nurse Aide position include:

- Active license without discipline
- Continuous employment as a Certified Nurse Aide for a minimum of one year
- Availability to consistently prepare for and attend monthly meetings
- Ability to clearly define the scope and standards of practice for a Certified Nurse Aide

The purpose of the Nurse Aide Practice Act is the protection of the consumer, specifically in the Long Term Care and Home Health settings. The Colorado Nurse Aide Practice Act, based on federal law, is comprehensive and tailored after the Nurse Practice Act and includes education and certification requirements, grounds for discipline, sanctions, and procedures for hearings. Many facilities, other than Long Term Care and Home Health that are required to hire certified nurse aides, have chosen to utilize the certified nurse aide to ensure a level of competent practice to their patients and residents.

Since the beginning of Colorado's statutory regulation of the nurse aide in July 1989, the Board of Nursing has had the ability to form an Advisory Committee to assist the Board in matters related to nurse aides. The Board granted authority to the Nurse Aide Advisory Committee (NAAC) to determine eligibility for certification when an applicant disclosed a history of crimes, drug and/or alcohol problems, or mental and/or physical disabilities, and to determine the disposition of complaint investigations and the appropriate sanctions. The NAAC is comprised of six members; 1) one certified nurse aide, 2) one member of the Board of Nursing, 3) one member representing professional associations composed of home health agencies, 4) one member from a group representing the concerns of senior citizens, and 5) one member representing professional associations composed of nursing homes. The sixth member is from the Department of Public Health and Environment and serves as an ex officio member. All appointees serve a three year term and are eligible for reappointment once.

The monthly committee meetings last between two and four hours and are typically on the last Wednesday of the month in the afternoon. Committee members receive their agenda packets approximately two weeks prior to the meeting to allow adequate review and preparation time. Members receive monetary compensation.

Continued...

HIPAA COMPLIANCE WITHOUT HEARTACHE

by Elizabeth E. Hogue, Esq.

***' IT IS
EXTREMELY
IMPORTANT
FOR PROVID-
ERS TO KNOW
THAT THEY ARE
NOT REQUIRED
TO COMPLY
WITH THESE
FINAL REGULA-
TIONS UNTIL
APRIL 14, 2003,
MORE THAN A
YEAR FROM
NOW!'***

During 2000, the committee reviewed 140 non-routine applications for certification. The committee also reviewed 163 Reports of Investigation, dismissing 62 cases, issuing 15 letters of admonition, and suspending 38 and revoking 48 certificates. The committee has also dealt with various requests, reinstatements, and settlement matters.

HCAC member agencies are encouraged to inform their CNA employees of this opportunity to serve in this capacity. Interested CNAs should contact Dorothy Braun, RN, Nurse Practice Consultant at the Board of Nursing for an application by phone at (303) 894-2442 or by writing to the Board of Nursing, 1560 Broadway, Suite 880, Denver, CO 80202.

Homecare providers have satisfied an enormous burden of regulatory compliance since passage of the Balanced Budget Act of 1997. Now it may seem that providers are facing another enormous burden in the form of new final regulations that implement the privacy requirements of the Health Insurance Portability Accountability Act (HIPAA). These regulations are intended to help to ensure confidentiality of protected health information.

Providers should, however, bear in mind the following when they consider how to achieve compliance:

1. It is extremely important for providers to know that they are not required to comply with these final regulations until April 14, 2003, more than a year from now! So there is plenty of time to work toward compliance.

2. Providers may wish to delay final compliance efforts for the time being because changes may be made to the regulations. There has been an enormous outcry against both the proposed and final HIPAA regulations. Although mandated by federal law, it is likely that the U.S. Department of Health and Human Services may make significant changes in the regulations in response to a number of concerns raised by various segments of the health care industry as the deadline for compliance gets closer.

3. Although the regulations indicate that they may be superceded by state statutes that are more stringent, states must apply for exceptions to the HIPAA regulations in order for state statutes to govern the conduct of providers. So providers do not have to worry about interpreting state statutes in relation to HIPAA and whether they should follow state statutes as opposed to the final HIPAA regulations. Providers must, however, keep up to date on whether the states in which they

Continued...

provide services have applied for exceptions that have been granted. If so, providers need to understand how the exception relates to HIPAA regulations. At this point, however, it is entirely unclear if any states will apply for exceptions and whether any exceptions will be granted.

4. The final HIPAA regulations require consent to release of protected health care information. This requirement is certainly nothing new for providers. Practitioners have historically been very cognizant and respectful of the need to obtain consent from patients prior to release of health care information. The HIPAA regulations include specific requirements regarding consent. These specifications, if different from what already appears in providers' consent forms, should be met by modifying existing forms, not by creating new forms. This practical strategy for minimizing compliance efforts is consistent with the final HIPAA regulations that make it clear that it is acceptable to meet the requirements of HIPAA by modifying existing forms, if necessary.

5. The final HIPAA regulations say that patients may ask for individualized restrictions on release of protected health care information. The regulations also specify, however, that providers are not required to agree to such individualized restrictions. Another practical strategy to achieve compliance may be to decline to agree to any requests for additional restrictions on the release of information. Providers can readily see that restrictions that are different from those required by HIPAA and apply only to individual patients will be very difficult, if not impossible, to administer. Along with the other regulatory and paperwork burdens faced by providers, it is too burdensome to ask staff to examine each record for possible individualized treatment before information is released under circumstances that are permitted by the final HIPAA regulations.

6. Under the final HIPAA regulations, providers are required to designate a so-called "privacy official" and a "contact person" to receive complaints related to HIPAA compliance and release of health care information. The most practical strategy to meet this requirement seems to be to appoint the staff person who is now responsible for patient records to fulfill these responsibilities. The suggestion has been made that the Compliance Officer under providers' Medicare/Medicaid Fraud and Abuse Compliance Plans could also serve in these capacities. Implementation of this suggestion seems to place too great a burden on the time and resources of one individual who is not as familiar with issues of patient confidentiality as staff members who have dealt with these issues

Continued...

Important Phone Numbers

Home Health Hotline

(800) 842-8826 or
(303) 692-2800

Dept. of Public Health & Environment, Health Facilities Division

(303) 692-2908

Medicaid Home Health

(303) 866-4654

Medicaid HCBS

(303) 866-5659

Medicaid PARS

(303) 866-5908

Home Health PDN & EPSDT

Sharon Bren, CFMC
(303) 695-3300, ext. 3035

ACS Provider Assistance

(800) 237-0757 or
(303) 534-0146

Medicaid Billing Abuse or Fraud

(303) 866-2420

over a longer period of time. In short, it may be advisable to use Compliance Plans to address issues related to potential fraud and abuse only.

7. Providers need to know that HIPAA regulations also allow for so-called whistleblowers i.e. individuals with “inside” knowledge about alleged violations who bring such violations to the attention of the Office of Civil Rights (OCR), the primary enforcer of HIPAA requirements regarding confidentiality and/or other regulators. Just as whistleblowers have been significant sources of actions against providers in the fraud and abuse arena, they may also prove to be a major source of information regarding violations under HIPAA. Providers should, therefore, make it clear that each employee is responsible for compliance with HIPAA regulations.

Managers are appropriately concerned about radical changes and enormous burdens of regulatory compliance during recent years. But compliance with HIPAA regulations is likely to be much less complex as soon as all final changes have been made to the regulations.

*(Ed. Note: Elizabeth E. Hogue is an attorney practicing health care law in Burtonsville, Md. She has spoken at HCAC's convention and Medicare Seminar. This copyrighted article was published in **the management report** with permission of the author. The material has been provided to HCAC members as information only and in no way is to be inferred that HCAC recommends or endorses the contents. To obtain additional information about this subject, call Hogue at (301) 421-0143 or send a fax to (301) 421-1699.)*

HCAC e-bulletins popular with members

Members are now receiving timely electronic bulletins from HCAC headquarters along with links to HCAC and other key web sites. Recent topics have included Medicaid 50a cost report requirements; State Operations Manual; Long Term Home Health PARs and Legislative Audit Report. Watch for your e-bulletins via e-mail and let HCAC know when you have a change of e-mail address just like you would if you moved your office to a new location.

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ADMINISTRATORS**

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inviting your state legislator or
U.S. congressman or a spouse to
serve on your agency's
advisory board?

If this sounds like a good idea
to you, please contact
Ellen Caruso at the
HCAC office
(303) 694-4728
ecarus@assnoffice.com

**Need help determining how you are doing with PPS or
preparing Medicare/Medicaid Cost Reports?**

A long time Home Care Accounting Exec.
is ready to meet your needs.

Contact: **Marlene Davis** at (303) 814-0882 or MaDavis98@aol.com
*Reasonable rates and no added travel charges
for my consulting services.*

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education for accreditation to meet the regulations for and overall manage-
ment of home health, hospice, HCBS and other agencies. Educational
programs tailored to the needs of the organization. (303) 536-0733.
FAX: (303) 536-4480. megraves28@aol.com.

TUCSON, AZ - Well-established, 25-year-old Hospice seeks Medical
Director. Position is 80-85% Clinical and 15-20% Administrative. Aver-
age daily census 160-175. Affiliated with three full-service hospitals and
the University of Arizona College of Medicine. Requirements: Internist or
Family Practitioner with either Hospice experience, a Palliative Care
Fellowship or Certification in Hospice and Palliative Care Medicine.
Contact Erin Row at (800) 851-8805 Ext. 3317; fax (314) 726-0026;
e-mail erow@cejka.com. ID#21275YF. For more opportunities, career
tips, and current salary information, visit www.cejka.com.

SEEKING TO BUY HOME CARE AGENCY - Out of state buyer
seeking to purchase Colorado home care agency. Send confidential letter
of interest in selling to Ellen Caruso, HCAC, 7853 E. Arapahoe Court
#2100, Englewood, CO 80112.

**Home Care Colorado 2001 Benchmark Survey of Home Care
Client Services and Staff Compensation – Another Outstanding
Membership Service!** HCAC's latest survey is full of important and
valuable data on the current state of home care in Colorado including the
only Colorado-specific report on salaries paid to home care employees. If
your agency responded to the survey, you've already received your copy
of the report. If not, send in your request with \$100 and we'll mail you a
copy. (Nonmembers will pay \$200 for the results.)

FOR SALE - Call HCAC at (303) 694-4728 ext. 57 to order audio
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ALL NEW WEB SITE ADDRESSES

Olmstead:

www.hcfa.gov/medicaid/olmstead/olmshome.htm

OASIS Implementation Manual

<http://ww.hcfa.gov/medicaid/oasis/usermanu.htm>

OASIS

<http://www.hcfa.gov/medicaid/OASIS/OASIShmp.htm>

MSA Schedule

<http://www.access.gpo.gov/nara> (see page 8)

Colorado Workers Comp Rules

<http://www.coworkforce.com/dwc>

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