



# LAGNIAPPE

VOLUME XXVIII NUMBER 1 JANUARY 13, 2015

## Table of Contents

- Page 1 · Reminder for Employees Who Enrolled in Health Coverage Through the Marketplace  
· S&C 15-16 NH
- Page 2 · S&C 15-16 NH (cont.)
- Page 3 · CDC HAN Alert Regarding Treatment of Patients with Influenza  
· New OSHA Reporting Requirements
- Page 4 · DHH Issues RAC Emergency Rule
- Page 5 · LNHA Upcoming Events

## A Reminder for Employees Who Enrolled in Health Coverage Through the Marketplace

Consumers who enrolled in health care through the Marketplace in 2014 authorized through the Affordable Care Act will receive Internal Revenue Form 1095-A through the mail. This form will include information about the premiums paid for the health plan and is used to calculate the premium tax credit. Households may get more than one form if there is more than one person in the household who enrolled through the marketplace or who switched plans through life changes (e.g. marriage, etc.). If the amount paid during the year is less than the actual premium credit, an individual is eligible for a credit on the tax return. Individuals who had coverage from the Marketplace for only part of the year, must fill out IRS Form 8965. If individuals did not have health coverage for all or part of 2014, their income taxes will be affected. If the individual is not eligible for an exemption, he/she will be required to pay a fee when submitting a federal tax return. The fee is the higher of: \$95 per person who did not have coverage (\$47.50 per child under the age of 18) or 1% of the yearly household income above a certain amount (\$10,150 for an individual, \$20,300 for a married couple filing jointly). The maximum fee per family is \$285. Click [here](#) for additional guidance.

*Author: KarenSue Zoeller, Regulatory Director, LNHA*

## S&C 15-16-NH

On December 19, 2014, Director Thomas Hamilton (Survey and Certification Group, CMS) released S&C15-16-NH outlining the use of the Civil Money Penalty (CMP) Analytic Tool and Submission of CMP Tool Cases to the State Survey Agency Directors. S&C 15-16-NH is effective immediately for "all enforcement cases when the CMS Regional Office determines that a CMP is an appropriate enforcement remedy." CMS began piloting the Analytic Tool in April of 2013 and following a pilot project distributed the tool to CMS Regional Offices on June 16, 2014. According to CMS, the Tool makes possible "a nationally consistent application and imposition of CMPs and other enforcement remedies." The Regional Office is required to evaluate each case and "consider whether or not to impose an enforcement remedy or multiple remedies." This is to be done in consultation with the State and the following must be considered: (cont. page 2)

**Join the conversation and connect with LNHA today!**

## S&C 15-16-NH (cont.)

- “The Scope and Severity (S/S) of the deficiency(ies);
- The relationship of one deficiency to other deficiencies resulting in noncompliance;
- A facility’s prior history of noncompliance; and
- The likelihood that the selected remedy(ies) will achieve correction and continued compliance.”

The S&C notes that remedies “should increase with the severity of deficiency.” Remedies detail specific actions and time frames within a directed plan of correction. In addition to the regulation mandating that a facility cited at immediate jeopardy level, S/S levels, J, K, L, be terminated within 23 days or temporary management be put in place, CMS may also impose CMPs ranging from” \$3,050 to \$10,000 per day or \$1,000 to \$10,000 per instance.” CMS may also impose additional remedies including the Denial of Payment for New Admissions (DPNA). A facility has the right to appeal and may exercise its waiver of right to a hearing.

The Tool is an internal CMS software and not accessible by the public. CMS notes that the “tool is not intended to yield an automatic, immutable end result in the calculation of the CMP.” There is a CMP Analytic Tool User’s Guide that should be accessed as the Regional Office reviews the case. A copy of the S&C 15-16-NH is available [here](#). As of this morning, LNHA received a memo from Lyn Bentley with AHCA. They plan to review the memorandum and will provide additional information.

*Author: KarenSue Zoeller, Regulatory Director, LNHA*

### Advertise in the Lagniappe and Meet Your 2015 Business Goals!

LNHA’s newsletter, Lagniappe, hits providers’ desks twice a month with the latest news in regulatory issues, innovative ideas and membership news. If your company has information that you want to get into the hands of long term care providers quickly and efficiently, Lagniappe is the perfect vehicle for your message. For more information on sizes and pricing visit the LNHA website. If you have questions, contact Karen Miller at [kmiller@lnha.org](mailto:kmiller@lnha.org).

### Did You Know?

LNHA is now offering the member mailout in an email version. Electronic delivery allows us to provide better, faster and more efficient service while going paperless. To receive this monthly informative member mailout, email Karen Miller at [kmiller@lnha.org](mailto:kmiller@lnha.org).

LNHA is now posting the weekly Region VI Insider on our website at [www.lnha.org](http://www.lnha.org) under “News and Events.” The tab will be on the left called “CMS Region VI Insider.”



**JEREMY D. GOUX**  
**WYNNE, GOUX & LOBELLO**  
ATTORNEYS AT LAW, LLC



**Medical Malpractice**  
**Regulatory Compliance**  
**General Liability**  
**Worker’s Compensation**  
**Facility and Staff Support**

410 N. Jefferson Ave.  
Covington, LA 70433  
(985)898-0504  
Fax: (985)898-0840  
[jgoux@wgllawfirm.com](mailto:jgoux@wgllawfirm.com)

## CDC HAN Alert Regarding Treatment of Patients with Influenza



Widespread influenza activity is being reported in most U.S. states, with influenza A (H3N2) viruses being the most common. H3N2-predominant flu seasons have been associated with more hospitalizations and deaths in older adults and young children. In addition, approximately two-thirds of H3N2 viruses that have been tested at the CDC are antigenically or genetically different from the H3N2 vaccine virus. This difference suggests that vaccine effectiveness may be reduced this season. High hospitalization rates are being observed; similar to what was seen during the 2012-2013 influenza season. Hospitalization rates are especially high among adults 65 years and older. In this context, the use of influenza antiviral drugs as an adjunct to vaccination becomes even more important than usual in protecting people from influenza. Antiviral medications are effective in treating influenza and reducing complications. Antivirals

are available and recommended, but evidence from the current and previous influenza seasons suggests that they are severely underutilized.

The CDC has released, “CDC Health Update Regarding Treatment of Patients with Influenza with Antiviral Medications” is available [here](#). This health update will provide 1) a summary of influenza antiviral drug treatment recommendations, 2) an update about approved treatment drugs and supply this season, and 3) background information for patients regarding anti-influenza treatment.

For general information about Influenza (flu), visit the DHH Fight the Flu website by clicking [here](#).

To remain current on newly released information regarding influenza activity across the United States, visit the Centers for Disease Control and Prevention (CDC) website by clicking [here](#).

## New OSHA Reporting Requirements

Click [here](#) to view a handout detailing some changes that OSHA instituted on January, 1, 2015 regarding the reporting of workplace fatalities and severe injuries. If you have any questions and are a participant in the LHCSIF Workers’ Compensation Program, contact the Loss Prevention Department at Risk Management Services at 1.800.351.7475 or at [lossprevention@rmsla.com](mailto:lossprevention@rmsla.com).

## Louisiana Department of Health and Hospitals Issues RAC Emergency Rule

On November 20, 2014, the Louisiana Department of Health and Hospitals (DHH) issued an Emergency Rule implementing a Recovery Audit Contractor (RAC) program. This adds yet another layer to the growing number of Medicare and Medicaid auditors and program integrity activities. Below is a summary of the Emergency Rule.

The Medicaid RAC's functions are:

- (1) Reviewing claims within three (3) years of the date of initial payment looking back from the date of the RAC audit;
- (2) Issue determination letters to provider(s) within 60 days of receiving all requested materials; and
- (3) Ensure proper identification of records the RAC is requesting from the provider.

The scope of Medicaid RACs' review excludes (i) claims within 90 days of implementation of any Medicaid managed care program that relates to the requested claims; (ii) certain claims relating to capitated Medicaid managed care programs; and (iii) medical necessity reviews of claims where the provider has obtained prior authorization for the service.

RAC documentation requests cannot exceed one percent of the number of claims filed by a provider in the previous state fiscal year during a 90-day period for the specific service under review. Each specific service identified for audit, however, is considered a separate and distinct audit. Providers will be allowed 45 days within which to submit documents requested by the RAC unless the parties mutually agree to an extension of time.

Providers are allowed to submit medical records electronically. If the RAC requires that records be submitted in a non-electronic format, however, the RAC must reimburse the provider for the reasonable costs of reproducing the records.

There are informal and formal appeals processes available for providers to whom the RAC issues adverse determinations. These processes are outlined in the Emergency Rule. The good news is that no recoupment of any RAC-identified overpayments may occur until the provider has completed all informal and formal appeals.

DHH may impose penalties and/or sanctions against a RAC which inappropriately denies a claim(s). Those penalties and sanctions include:

- (1) A monetary penalty up to ten percent of the cost of claims may be awarded to the provider; or
- (2) Up to five percent of the RAC's total collections must be paid to DHH.

The Emergency Rule may be found online at: <http://doa.louisiana.gov/osr/emr/1411EMR065.pdf>

Author: Michelle Buford is a healthcare attorney at Sullivan Stoler Knight LC and is located in the Lafayette office. She can be reached at [mbuford@sullivanstolier.com](mailto:mbuford@sullivanstolier.com).

Reprinted with permission from the December 2014 issue of Louisiana Hospital Association's Impact Lawbrief and the author. Copyright 2013 by the Louisiana Hospital Association. All rights reserved.

# PROVEN RESULTS



DELIVERING COMPREHENSIVE SOLUTIONS TO SENIOR LIVING PROVIDERS FOR OVER 25 YEARS.

**SCOTT BLOUNT, CFA, VICE PRESIDENT**  
sblount@lancasterpollard.com  
www.lancasterpollard.com  
(512) 327-7400

**LANCASTER POLLARD**

Lancaster Pollard Mortgage Company is a Fannie Mae/GNMA/HUD-FHA/USDA approved lender. Lancaster Pollard & Co., LLC is a registered securities broker/dealer with the SEC and a member of FINRA, MSRB & SIPC.

## LNHA's Upcoming Events and Save the Dates!



New events have been added to the [News and Events web page](#) and to the e-calendar. Check the website today to view the flyer and agenda for upcoming trainings. To register for an event, visit [www.lnha.org](http://www.lnha.org) and click the calendar icon on the home page and select the appropriate event.

### UPCOMING EVENTS:

- February 10: Staying Compliant Through the Involuntary Discharge Process, Sam's Town Casino Hotel, Shreveport
- February 12: Staying Compliant Through the Involuntary Discharge Process, Crowne Plaza, Baton Rouge
- March 10-13: Resident Activity Director Certification, Paragon Casino, Marksville

### SAVE THE DATES:

- May 5-6: Spring Conference
- September 21-23: Annual Convention and Trade Show

 We Cover What An Application Doesn't

## Southern Research Company, Inc.



**Louisiana Statewide Authorized Agent**  
(For non-licensed health care workers and licensed ambulance personnel)

---

**Louisiana Statewide Criminal Research**  
Official Driving Records • OIG Search • Social Trace  
\*\* Other services available \*\*

**24 hour turn around** (In most cases)  
Online services available

**Call or visit our website TODAY**  
318.227.9700 / [www.southernresearchinc.com](http://www.southernresearchinc.com)

Member of  
LA Nursing Home Association • Public Record Retriever Network  
National Association of Professional Background Screeners

 **Southern Research Company**  
SINCE 1956



The *Lagniappe* newsletter is published twice a month by the Louisiana Nursing Home Association, 7844 Office Park Blvd., Baton Rouge, LA 70809, 225.927.5642. *Lagniappe* is provided as a membership benefit. Executive Director: Joseph Donchess; Communications Director: [Karen Miller](#).

**Follow LNHA on your social media sites  
for the latest in news and updates!**