**CMS Issues Additional Guidance on Reporting Crimes in Long-Term Care Facilities, including ICFs**

The Centers for Medicare and Medicaid Services (“CMS”) has updated its guidance for reporting of suspicious crimes by long term care facilities, including ICFs. The Survey and Certification Memorandum from June 17, 2011 (“S&C-11-30-NH”) regarding the crime reporting provisions of the Elder Justice Act (“EJA”) has been updated as of January 20, 2012 with additional definitions and questions and answers.

In particular, CMS added definitions for “contractor” and “agent” to assist providers in determining who is included in “covered individuals” that must report a reasonable suspicion of a crime against a resident of a facility. Although meant to provide clarification, the additional terms still do not provide clear cut guidance and uncertainties remain. Definitions were also added for “political subdivision” and “retaliate against an employee.” In the Q&A section of the revised memorandum, CMS provided additional clarity regarding the role of the facility in reporting the suspicion of a crime and about the impact of this requirement on ICFs. For additional information, please review the attached revised S&C-11-30-NH.

Since CMS has yet to release a model poster regarding the requirement that facilities post a conspicuous notice that explains employee rights under the law, groups have been developing their own templates. For example, template posters have been provided to members of the American Health Care Association (“AHCA”) and LeadingAge that facilities may utilize. These templates have not been officially approved by CMS or any law enforcement agencies but do refer to each aspect of the EJA’s notification requirements. In order to properly use such templates, a facility will need to insert facility-specific information, including contact information for the state survey agency and local law enforcement agencies.

For any questions, please contact Anita Allen.

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