

Administrator Alert

*Policy updates & rule clarifications for Assisted Living,
Residential Care & Nursing Facilities*

Office of Licensing & Quality — Oregon Department of Human Services

April 28, 2009

CHANGE IN PROCESS FOR ACCIDENT/INCIDENT INVESTIGATION REPORTS

On May 23, 2006, the Centers for Medicare and Medicaid Services (CMS) issued a modification to the existing System of Records pertaining to the disclosure of individual-specific information found in ACTS. The Notice prohibits the release of any data if there is a possibility that an individual can be identified. To that end, CMS included safeguards including restricting individuals who may have the ACTS data to those with “routine use” requirements. No other individuals, including Licensees, may receive any information contained in ACTS without prior CMS approval through a Freedom of Information Act (FOIA) request. The “2567” report that may be generated from a Survey or a complaint investigation remains available for public distribution.

As a result, the State can no longer release information from the ACTS portion of the ASPEN Federal database. Therefore, the Corrective Action Unit (CAU) is no longer able to include summaries of the information contained in ACTS reports in Letters of Determination (LOD).

To comply with the Federal requirements, the CAU has amended the LOD and its attachments for virtually all CCMU investigations. The introductory statement has been modified to include the date on which the complaint was received by CCMU instead of the date of the incident.



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The narrative statement following the statement of the outcome has been changed to read:

The Accident/Incident Investigation Report determined that the allegation was (not substantiated/substantiated/unable to be determined). (A federal civil money penalty has been proposed.)

The Centers for Medicare/Medicaid Services has determined the information contained in Accident/Incident Investigation Reports conducted by CCMU surveyors is confidential and cannot be released to the public by the Department of Human Services. Therefore, the Department can no longer release information from the investigation report identified above. If you would like to obtain a copy of this report, you must file a request under the Freedom of Information Act (FOIA).

A copy of the FOIA request is attached for your convenience. The Department will not be attaching this form to the facility's copy of the LOD. Please copy this form and use it when you request a copy of the public summary of the ACTS report.

The Department may make further changes to its process as they become necessary. You will be advised when those changes occur. If you have any questions, please contact Diana Norton, Corrective Action Unit Manager at 503-945-6405 or Diana.Norton@state.or.us.

