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ACL 17-04

Date: March 10, 2017
To: Community-Based Adult Services (CBAS) Center Administrators and Program Directors
From: California Department of Aging (CDA) CBAS Branch
Subject: Use of Secured Perimeter Fences and Egress Control Devices in ADHC / CBAS Centers

Purpose

This All Center Letter (ACL) informs all CBAS providers about the permissible use of secured perimeter fences and egress control devices in ADHC / CBAS centers under federal and state requirements.

Overview

Existing Adult Day Health Care (ADHC) regulations in the Health and Safety Code (HSC), Division 2, Chapter 3.3, Article 4, Section 1584, permit an ADHC that provides care for adults with Alzheimer's disease and other dementias to install secured perimeter fences or egress control devices for the safety and security of these individuals.

- There are extensive California fire codes defining secured perimeters, delayed egress devices and physical setting requirements, and when these devices may be used. Refer to the state regulations at the end of this ACL.

In the federal Home and Community-Based Services (HCBS) Regulation, 42 Code of Federal Regulations (CFR) 441.301(c)(4), the Centers for Medicare & Medicaid Services (CMS) requires CBAS centers to comply with the federal Home and Community-Based (HCB) Settings requirements including ensuring an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

- CMS informed the State that the use of secured perimeters and delayed egress are permissible if this technology is used according to state regulation and is justified in the person-centered plan as being necessary to ensure the health and safety needs of a person with a dementia based on the multidisciplinary team assessment.

“Secured perimeters” are rarely used in the community setting, as very few CBAS facilities have the minimum exterior square footage to allow for a secured fence line. More sites qualify for delayed egress, which is designed for safety to alert staff in dementia care programs, in particular, of an egress door opening. The exit door is not allowed to be locked; it opens after a short delay of 10 - 30 seconds.

“Delayed egress” is a tool that allows CBAS staff to gently redirect the person with dementia and impaired judgment from exiting the building. The ability to have this warning device saves persons with dementia from becoming lost, being injured or dying as a consequence of wandering behaviors resulting from the disease process. The Alzheimer’s Association and other advocates have made it clear in their public comments that the availability of CBAS centers with delayed egress is essential for individuals at risk of wandering who would otherwise not have a community-based option and would be required for safety and security reasons to be placed in a skilled nursing facility.

Implementation and State Oversight

If a CBAS center uses secured perimeter fences and/or egress control devices, it is required to have in place and operationalize the necessary policies and procedures including staff training to comply with the state’s Health and Safety Code and the federal HCB Settings regulations.

Through its on-site monitoring and oversight activities for CBAS center certification, the State will determine which CBAS centers use either one or both of these technologies and if these centers are adhering to state and federal regulations evidenced by the following:

- Maintaining documentation of a participant’s diagnosis of Alzheimer’s disease or other dementia by a physician.
- Documenting in the participant’s person-centered plan the need for the use of these devices, based on the MDT assessment, to address an individual’s unsafe wandering or exit-seeking behavior.
- Informing all participants, conservators, agents, and persons who have the authority to act on behalf of participants on the center’s use of security devices. The center is to maintain in the participant’s health record a signed participation agreement indicating the use of the devices and the consent of the participant, conservator, agent, or person who has the authority to act on behalf of the participant.
- Providing staff training regarding the use and operation of the egress control devices utilized by the center, the protection of participants’ personal rights, wandering behavior and acceptable methods of redirection, and emergency evacuation procedures for persons with dementia.

- Maintaining adequate staffing ratios at all times and not using egress control devices or secured perimeter fences to substitute for adequate staff.

All CBAS centers are required to complete the *CBAS Provider Self-Assessment (PSA) Survey* as part of the initial certification of new centers, during certification renewal, and as requested for center relocations and increases in capacity. The PSA includes the following question specific to the center's use of secured perimeter fences and egress control devices: *"Does the center use delayed egress devices or secured perimeters in accordance with ADHC/CBAS law (Health and Safety Code, Section 1584)?"*

- If a CBAS center does not use these devices, the provider would answer "not applicable (N/A)" to this question.
- If a CBAS center uses one or both of delayed egress devices or perimeter fences, the provider would answer "yes" and indicate on the PSA survey all evidence the center has to support its adherence to and compliance with this law such as Policies & Procedures, In-Service Training Records, Employee Records, Participant Health Records, Information/Material, or Other.
- During the on-site certification survey, the State will validate the information provided in the PSA survey via review of documentation, observation and interviews with CBAS staff and participants. A CBAS center will be cited with a deficiency and will require a plan of correction if it is out of compliance with state and federal requirements on the use of secured perimeter fences and/or egress control devices.

If CBAS participants, their family/caregivers or authorized agents believe that any aspect of CBAS services violates their rights to privacy, dignity and respect, and freedom from coercion and restraint, they have the right to submit a grievance through the CBAS center's and/or managed care plan's grievance process.

Key State and Federal Requirements

Health and Safety Code, Division 2, Chapter 3.3, Article 4, Section 1584 (Secured Perimeter Fences and Egress Control Devices)

- (a) An adult day health care center that provides care for adults with Alzheimer's disease and other dementias may install for the safety and security of those persons secured perimeter fences or egress control devices of the time-delay type on exit doors.
- (b) As used in this section, "egress control device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any participant's departure from the center for longer than 30 seconds. Center staff may attempt to redirect a participant who attempts to leave the center.
- (c) Adult day health care centers installing security devices pursuant to this section shall meet all of the following requirements:

- (1) The center shall be subject to all fire and building codes, regulations, and standards applicable to adult day health care centers using egress control devices or secured perimeter fences and shall receive a fire clearance from the fire authority having jurisdiction for the egress control devices or secured perimeter fences.
- (2) The center shall maintain documentation of diagnosis by a physician of a participant's Alzheimer's disease or other dementia.
- (3) The center shall provide staff training regarding the use and operation of the egress control devices utilized by the center, the protection of participants' personal rights, wandering behavior and acceptable methods of redirection, and emergency evacuation procedures for persons with dementia.
- (4) All admissions to the center shall continue to be voluntary on the part of the participant or with consent of the participant's conservator, an agent of the participant under a power of attorney for health care, or other person who has the authority to act on behalf of the participant. Persons who have the authority to act on behalf of the participant include the participant's spouse or closest available relative.
- (5) The center shall inform all participants, conservators, agents, and persons who have the authority to act on behalf of participants of the use of security devices. The center shall maintain a signed participation agreement indicating the use of the devices and the consent of the participant, conservator, agent, or person who has the authority to act on behalf of the participant. The center shall retain the original statement in the participant's files at the center.
- (6) The use of egress control devices or secured perimeter fences shall not substitute for adequate staff. Staffing ratios shall at all times meet the requirements of applicable regulations.
- (7) Emergency fire and earthquake drills shall be conducted at least once every three months, or more frequently as required by a county or city fire department or local fire prevention district. The drills shall include all center staff and volunteers providing participant care and supervision. This requirement does not preclude drills with participants as required by regulations.
- (8) The center shall develop a plan of operation approved by the department that includes a description of how the center is to be equipped with egress control devices or secured perimeter fences that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143. The plan shall include, but not be limited to, the following:
 - (A) A description of how the center will provide training for staff regarding the use and operation of the egress control device utilized by the center.

(B) A description of how the center will ensure the protection of the participant's personal rights consistent with applicable regulations.

(C) A description of the center's emergency evacuation procedures for persons with Alzheimer's disease and other dementias.

(d) This section does not require an adult day health care center to use security devices in providing care for persons with Alzheimer's disease and other dementias.

42 CFR 441.301(c)(4)

(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered plan:

- (i) *The setting is integrated in and supports full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCB Services.*
- (ii) *The setting is selected by the individual among setting options including non-disability specific settings. The setting options are identified and documented in the person-centered plan and are based on the individual's needs, preferences and for residential services, resources available for room and board.*
- (iii) *Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.*
- (iv) *Optimizes, but does not regiment, individual initiative, autonomy and independence in making life choices, including but not limited to, daily activities, physical environment and with whom to interact.*
- (v) *Facilitates individual choice regarding services and supports, and who provides them.*

Questions

For questions about this letter, please call the CBAS Branch at (916) 419- 7545 or email us at cbascda@aging.ca.gov.