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ACL 17-03

Date: March 9, 2017
To: Community-Based Adult Services (CBAS) Center Administrators and Program Directors
From: California Department of Aging (CDA) CBAS Branch
Subject: Use of Soft Restraints in ADHC / CBAS Centers

Purpose

This All Center Letter (ACL) informs all CBAS providers about the permissible use of soft restraints in ADHC / CBAS centers under federal and state requirements.

Overview

Existing ADHC / CBAS regulations in Title 22, Section 78315, permit the use of soft restraints in the CBAS setting under specified circumstances. Additional laws, regulations, and Waiver provisions require CBAS providers to develop operational policies and procedures and provide in-service training for staff on the use of soft restraints. Refer to the state regulations at the end of this ACL.

The Centers for Medicare & Medicaid Services (CMS) has specified that the State must ensure that CBAS centers using restraints meet federal Home and Community-Based (HCB) Settings requirements under 42 Code of Federal Regulations (CFR) 441.301(c)(4)(iii) and (vi)(F) and person-centered service planning and plan requirements under 42 CFR 441.301(c)(1) and (c)(2) as follows:

1. Document that alternative strategies have been considered to avoid the use of restraints,
2. Document methods for detecting the unauthorized use of or misapplication of restraints,
3. Develop protocols that must be followed when restraints are employed (including the circumstances when their use is permitted and when they are not) and how their use is authorized,
4. Establish practices that must be employed in the administration of a restraint to ensure the health and safety of individuals,
5. Require documentation (record keeping) concerning the use of restraints, and

6. Establish education and training requirements that provider agency personnel must meet who are involved in the administration of a restraint.

Implementation and State Oversight

CMS is requiring the State and CBAS centers to implement the previously described protocols, practices, documentation and training on the use of soft restraints to comport with the HCB Setting requirements and person-centered service planning and plan requirements. It wants to ensure that the use of restraints is determined by a specific individualized assessed need and that the assessed need is documented in an individual's person-centered plan and will include an assurance that interventions and supports will cause no harm to the individual.

The State is monitoring the center's adherence to state and federal requirements during the center's on-site certification survey. 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 restraints: "*Does the center use restraints in compliance with ADHC/CBAS regulation (Title 22, CCR, Section 78315)?*"

- If a CBAS center does not use restraints, the provider would answer "not applicable (N/A)" to this question.
- If a CBAS center uses restraints, 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 regulation. Such evidence could include 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 soft restraints.

Key State and Federal Requirements

Title 22, Section 78315 Nursing Services - Restraints.

- (a) Restraints shall be used only as measures to protect the participant from injury to self, based on the assessment of the participant by the multidisciplinary team,
- (b) Restraints shall be used only under the following conditions:

- (1) Treatment restraints for the protection of the participant during treatment and diagnostic procedures.
- (2) Supportive restraints for positioning the participant and to prevent the participant from falling out of a chair or from a treatment table or bed.
- (c) Acceptable forms of restraints shall include only cloth vests, soft ties, soft cloth mittens, seat belts and trays with spring release devices. Soft ties means soft cloth which does not cause skin abrasion and which does not restrict blood circulation.
- (d) Restraints shall not be used as punishment or as a substitute for medical and nursing care.
- (e) No restraints with locking devices shall be used or available for use.
- (f) Restraints shall be applied in a manner so that they can be speedily removed in case of fire or other emergency.
- (g) Various types of adult chairs referred to as geriatric chairs are not defined as a restraint if the type of closing mechanism of the chair and the physical and mental capability of the specific participant allow for easy removal.

42 CFR 441.301(c)(4)(iii) - HCB Settings Requirements

- (4)(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

42 CFR 441.301(c)(4)(iii), 42 CFR 441.301(c)(vi)(F), 42 CFR 441.301(c)(1) and (c)(2) - HCB Settings and Person-Centered Planning Requirements

[http://aging.ca.gov/ProgramsProviders/ADHC-CBAS/HCB_Settings_Stakeholder_Activities/Key_Documents/Docs/HCBS_Final_Regulations_Referenced_in_CBAS_Waiver_\(Excerpts\).pdf](http://aging.ca.gov/ProgramsProviders/ADHC-CBAS/HCB_Settings_Stakeholder_Activities/Key_Documents/Docs/HCBS_Final_Regulations_Referenced_in_CBAS_Waiver_(Excerpts).pdf)

Questions

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