



Regulatory Year in Review: Collaboration on a Forced March

JOANALYS B. SMITH
SMITH & ASSOCIATES ATTORNEYS

CHANGIN' TIMES



Knowledge is Power



Issues as We Hold Hands and Stick Together

- Administrative Penalties
- HCS Zero Rejection
- HCS Survey Process
- Guardians Gone Wild
- Responsible Parties
- A&N Appeals
- More DoL Decisions
- Billing Issues

Administrative Penalties

Remember \$5,000 cap in ICF
Settlements at 50%
Increased no correction
Tried at SOAH

HCS ZERO REJECTION

- Any Opening
- No time to plan or train
- Unsafe in community without adequate support
- May cap program or respond:

Willing to serve on a zero rejection basis; risk to others in home; time to train; time to hire appropriate staff;

HCS Survey Process

- ANY **SERIOUS** can support contract cancellation
- Do informal review
- Watch out for strange events (unscheduled, out of ordinary)
- Allegations of predetermined results
- Document everything if bad vibe
- Sign up to avoid cancellation
- Control Problem

40 TAC 49.102

- (21) Controlling person--A person who:
 - (A) has a controlling ownership interest;
 - (B) is a managing employee;
 - (C) has been delegated the authority to obligate or act on behalf of an applicant or contractor;
 - (D) is an officer or director of a corporation that is an applicant or contractor;
 - (E) is a partner in a partnership that is an applicant or contractor;
 - (F) is a member or manager in a limited liability company that is an applicant or contractor;
 - (G) is a trustee or trust manager of a trust that is an applicant or contractor;
 - (H) is a spouse of a person who is an applicant or contractor; or
 - (I) because of a personal, familial, or other relationship with an applicant or contractor, is in a position of actual control or authority with respect to the applicant or contractor, regardless of the person's title.

Contract Cancellation

- House Manager
- Friend who dropped by exit but got consumer
- No vendorhold unless rate enhancement
- Memos to move; well checks with attitude

Guardianship

- Court Activism
- No Client Rights
- Institutional Guardian must suggest friend



A&N ISSUES

- Triggering Complaint Surveys
- Provider Inaction as acceptance (both appeals and any conclusion)
- Crazy facts; helps up, extended investigation

DoL Togetherness

- Questionable whether anyone under \$50k on salary
- No IC/EE same jobs; must distinguish
- Watch nursing no LVN love
- Bonus promises

Billing

- SOAH maybe
- Home town maybe
- Contract Consolidation for Audit
- Own Home reviewers, unannounced ever?
- Count on cross referral
- EVV nightmare

QUESTIONS?



Contact us at:

(512) 261-9990

Joanalys@lawofficesJBS.com