

## Preventable Serious Adverse Events Frequently Asked Questions

**Important Note:** Please note that some of the questions in this Frequently Asked Questions (FAQ) document relate to the minimum claims guidelines when a Preventable Serious Adverse Event (PSAE) occurs. The [final bulletin](#) published in the *Pennsylvania Bulletin* on September 13, 2014 and issued on the same date on the department's bulletin website as [OLTL Bulletin 03-14-08](#) reflects significant changes to the guidelines for PSAE-related claims. In general, the minimum claims guidelines for a PSAE and services required to correct or treat a PSAE in the final bulletin include:

- Non-payment for one per-diem day. In general this would be the identified day of the event. In some cases, it may be difficult for the facility to determine the exact day. In these instances, the facility should choose the day to represent the PSAE.
- Non-payment for any bed-hold days if the resident is hospitalized as a result of a PSAE. Nursing facilities are required to hold the bed for up to 15 days.
- No requests for an exceptional durable medical equipment (DME) grant to treat or remedy the condition(s) caused by the PSAE.
- Report exceptional durable medical equipment costs as nonallowable on the cost report.
- Record the days as non-covered days on the resident census.
- Record the days as private pay and other day on the quarterly Resident Day Reporting (RDR) Form.

If an MA-enrolled nursing facility follows the guidelines in the bulletin, the department will consider the nursing facility as having satisfied its Act 1-related obligations to the department. Nonetheless, Act 1 specifically directs the health care providers to not knowingly seek payment for PSAEs and for corrective services. Therefore, the nursing facility remains obligated not to seek or to receive payments for the PSAE or for services to correct or treat problems caused by the PSAE, to provide appropriate notice and to refund applicable payments.

- 1. Question: Does the Office of Long-Term Living's (OLTL) Bulletin 03-14-08 (relating to preventable serious adverse events in nonpublic and county nursing facilities) pertain to Medical Assistance (MA) residents or all residents?**

*Answer: OLTL Bulletin 03-14-08 only applies to MA residents, including MA managed care and dual eligible, within general, hospital-based, special rehabilitation and county nursing facilities. If you have questions regarding Medicare requirements please refer to your Medicare intermediary.*

- 2. Question: Is an event considered serious if a resident is discharged to a hospital or only if a resident is permanently discharged from the nursing facility?**

*Answer: The event may be serious if it subsequently results in death or loss of body part, disfigurement, disability, or loss of body function lasting more than seven days. If within seven days, the resident is discharged from the nursing facility either temporarily to a hospital, or permanently from the facility, then the event may still be considered serious. A hospital visit of less than 24 hours is not considered a discharge.*

- 3. Question: If a resident falls as a result of equipment failure or a staff member not following the plan of care, is the event a PSAE?**

*Answer: A fall is not one of the events listed in Appendix A of the final bulletin. However, if an event occurs, such as the use of a device in inpatient care in which the device is used other than as intended (Appendix A, 2.B.) and the resident falls resulting in a serious injury, the event may be considered a PSAE. For example, the care plan specifies that the mechanical lift be used with the assistance of three staff. Only two staff are attending and the patient slips, falls, and fractures their hip.*

- 4. Question: What guidelines should be used to determine if a pressure ulcer is a PSAE?**

*Answer: The nursing facility should determine if the facility's policies and procedures and the resident's care plan were followed when applying the PSAE criteria provided in OLTL Bulletin 03-14-08.*

**5. Question: Is the nursing facility responsible for the care of a resident or untimely response by an attending physician?**

*Answer: The nursing facility is responsible for the care of the resident. Each nursing facility should have procedures to follow when an action by the attending physician is thought to be adversely affecting patient care.*

**6. Question: If a resident is injured as a result of an employee not following the nursing facility's policies and procedures or resident's care plan, does this qualify as a PSAE?**

*Answer: The nursing facility is responsible for the actions of its staff. However, the event must also be listed in Appendix A and the event must meet all four PSAE criteria in OLTL Bulletin 03-14-08.*

**7. Question: How long do we need to hold the bed when a resident is hospitalized as a result of a PSAE?**

*Answer: The length of the bed hold requirement does not change for a PSAE. In accordance with 55 Pa. Code § 1187.104(b)(1)(i) (relating to limitation on payment for reserved beds), a resident receiving nursing facility services is eligible for a maximum of 15 consecutive reserved bed days per hospitalization. For that period, hospital bed hold days related to a PSAE should be listed as non-covered days on the applicable claim submission and recorded as a private pay and other day on the RDR Form.*

**8. Question: What is the time frame for reporting a PSAE to the department?**

*Answer: The nursing facility should report a PSAE to the department once the nursing facility has independently determined a PSAE has occurred. If the nursing facility discovers that payment has unknowingly been sought for a PSAE or for services required to correct or treat problems created by the PSAE, then the nursing facility shall immediately notify the MA Program. In the event that the nursing facility received payment for the PSAE or for any services that were required to correct or treat the problems created by the PSAE, then the nursing facility shall refund any payment received within 30 days of discovery or receipt of payment, whichever is later.*

- 9. Question: If the department determines that an event is a PSAE and that event was not reported by the nursing facility to the PSAE coordinator because the nursing facility reviewed and documented the event as a non-PSAE, will the nursing facility be penalized?**

*Answer: If the department determines that an event is a PSAE and the nursing facility did not report the event because it was documented as a non-PSAE, the department will recover or adjust the MA payment as described in OLTL Bulletin 03-14-08 subject to any right of appeal the facility may have as found in OLTL Bulletin 03-14-08.*

- 10. Question: If a nursing facility determines that an adverse event is not a PSAE but reports the event to the Department of Health (DOH) as required, will OLTL review the event?**

*Answer: DOH is aware of the PSAE criteria. OLTL will review an event reported by DOH to the PSAE coordinator. Your nursing facility may be contacted to provide documentation relating to the investigation of the event.*

- 11. Question: Will OLTL conduct random visits in nursing facilities to determine compliance with reporting PSAEs?**

*Answer: The Division of Nursing Facility Field Operations or the DOH may report possible PSAEs to the OLTL PSAE coordinator during their routine visits.*

- 12. Question: Is an MA pending resident considered to be MA for purposes of evaluating a possible PSAE?**

*Answer: A nursing facility is responsible to determine the root cause of an incident, accident or event involving any resident and the nursing facility should review their protocols, processes, policies and procedures and revise as necessary to prevent recurrences. For MA pending residents, the nursing facility should determine and document if an event listed in Appendix A of OLTL Bulletin 03-14-08 meets the PSAE criteria. However, a nursing facility should not report a PSAE to the OLTL PSAE coordinator until the MA pending resident is determined to be eligible for MA and providing the PSAE occurred during the period of eligibility. Once the resident is MA eligible, the nursing facility shall follow the claims guidelines in the final OLTL bulletin referenced above.*

*If an MA pending nursing facility resident is determined to be ineligible for MA, the nursing facility is responsible to determine if there are reporting requirements for other payor types under 35 P.S. § 449.91 et seq. ("Act 1") or other applicable statutes and regulations.*

**13. Question: If a resident requires corrective services resulting from a PSAE, may a nursing facility bill MA separately for required therapy services?**

*Answer: No, a nursing facility may not bill MA separately for required therapy services because these services are included in the MA per diem rate.*

**14. Question: If a resident is admitted to a hospital as a result of a PSAE, will the nursing facility be responsible to pay for the services provided by the hospital to correct or treat problems caused by the PSAE?**

*Answer: No.*

**15. Question: If the PSAE does not require a hospital visit, when may the facility resume billing?**

*Answer: The facility may resume billing after the minimum claims guidelines in OLTL Bulletin 03-14-08 are met. However, nursing facilities may determine additional non-payment considerations to be appropriate. In these cases, the nursing facility must provide appropriate notice and refund applicable payments.*

**16. Question: When must a nursing facility contact the department regarding additional cost issues? Is it only when there is an additional cost that is being directly paid for by the department?**

*Answer: If the nursing facility believes that the minimum claims guidelines do not address the extent of the PSAE or corrective services, then the nursing facility, not the department, should identify additional payments for which it will not seek payment. In these cases, the nursing facility must provide appropriate notice and refund applicable payments.*

**17. Question: If a resident chooses to transfer to another nursing facility after a PSAE, will the receiving nursing facility be able to bill for that resident's stay?**

*Answer: The receiving nursing facility provider will be able to bill for corrective services related to a PSAE if their provider ID/tax ID differs from the surrendering facility's provider ID/tax ID on the Form 1099-MISC, miscellaneous income.*

**18. Question: If a PSAE occurs on a picture date, is the resident counted as MA?**

*Answer: No. The day of the event would be recorded as a non-covered day on the resident census. Therefore, the resident's Case Mix Index (CMI) would not be used to determine the MA CMI for that quarter.*

**19. Question: What will happen if a nursing facility reports a PSAE after the effective date of October 1, 2014 and the State Plan Amendment (SPA) submitted to the Centers for Medicare and Medicaid Services (CMS) is not approved until a later date?**

*Answer: Regardless of CMS approval, Act 1 of 2009 (35 P.S. §§ 449.91 – 449.97) still applies. As a result, nursing facilities are still obligated under 35 P.S. § 449.93(a) to not knowingly seek payment related to a PSAE, as defined in OLTL Bulletin 03-14-08. Also, nursing facilities are obligated, under 35 P.S. § 449.93(b), to refund payments made by the Department if it is later discovered that payment was sought for a PSAE. Accordingly, effective October 1, 2014, nursing facilities should follow the claims guidelines outlined in OLTL Bulletin 03-14-08.*