Follow-up information from August 23 provider training call and September 1 Open Door Forum

I. General clarifications

1. Clarification regarding when the ARD must be set for scheduled and certain unscheduled PPS assessments.

Answer: For the Change of Therapy (COT) OMRA, End of Therapy (EOT) OMRA, and Start of Therapy (SOT) OMRA, the decision for which day within the allowable ARD window the ARD of the assessment will be set may be made after the window has passed. For example, if a resident misses therapy on July 2-4, then the facility must complete an EOT OMRA for this resident and the ARD must be set for either July 2nd, 3rd, or 4th. However, the decision for which of those days should be used for the ARD on the EOT OMRA may be made after July 4th, the last day of the ARD window. Similarly, for the COT OMRA, the ARD may be set on a day after the close of the COT observation period, as long as the date set for the ARD of the COT OMRA is Day 7 of the COT observation period.

In contrast, for scheduled PPS assessments, the ARD for such assessments must be set by the end of the scheduled assessment ARD window (including grace days). In other words, the decision for which day within the ARD window will be used for the ARD of the scheduled assessment must be made by the end of the ARD window. For example, the ARD for a 30-day assessment may be set for any day within the range of Day 27 and Day 33, but the ARD for the assessment must be set by Day 33. Once a facility is outside the ARD window, then the facility cannot decide to set the ARD for the scheduled assessment for a day that is within the ARD window. In such cases, the ARD cannot be set for any day earlier than the day the decision to set the ARD is made. It should also be noted that when a scheduled and unscheduled assessment are combined, then the ARD for the combined assessment must be set in accordance with the scheduled assessment ARD policy. Similarly, in cases where an unscheduled assessment is combined with an OBRA assessment, then the ARD for the combined assessment must be set in accordance with the OBRA requirements.

Pursuant to the policy outlined in the FY 2009 SNF PPS final rule (73 FR 46434), only an MDS form (paper or electronic) may be used to establish the ARD on the day the decision is made. It is possible for facilities to change the ARD of the unscheduled PPS assessments referenced above (COT, EOT, SOT), so long as the date chosen for the ARD of the assessment is still within the allowable ARD window for the assessment. We would also note that no matter when the decision is made as to which day should be set for the ARD on a given PPS assessment, the completion and submission deadlines still apply. Therefore, no matter when a given COT OMRA record is opened and the ARD is entered as the equivalent of Day 7 of the COT observation period, the assessment must still be completed within 14 days of this ARD and submitted within 14 days of the date the assessment is completed.

2. Clarification regarding the effect of Leave of Absence (LOA) days on scheduled and unscheduled PPS assessments.

Answer: For scheduled assessments, pursuant to the policy outlined in Chapter 2, page 2-64, of the MDS 3.0 RAI Manual, the Medicare assessment schedule is adjusted to exclude the LOA when determining the appropriate ARD for a given assessment. For example, if a resident leaves a SNF at 6:00pm on Wednesday, which is Day 27 of the resident's stay and returns to the SNF on Thursday at 9:00am, then Wednesday becomes a non-billable day and Thursday becomes Day 27 of the resident's stay. Therefore, a facility that would choose Day 27 for the ARD of their 30-day assessment would select Thursday as the ARD date rather than Wednesday, as Wednesday is no longer a billable Medicare Part A day.

However, in the case of unscheduled PPS assessments, the ARD of the relevant assessment is not affected by the LOA because the ARDs for unscheduled assessments are not tied directly to the Medicare assessment calendar or to a particular day of the resident's stay. Specifically, in the case of an EOT OMRA, an EOT OMRA must be performed if a resident does not receive therapy for three consecutive calendar days, which may include days during which the resident experienced a LOA. For example, if a resident were to miss therapy on Monday and Tuesday, go to the emergency room at 9:00pm on Wednesday, return to the facility on Thursday at 10:00am and receive therapy on Thursday, then an EOT OMRA would be required with an ARD set for Monday, Tuesday, or Wednesday. With regard to payment, the EOT OMRA would control payment for those Medicare-billable days during which the resident did not receive therapy while those non-Medicare billable days would remain non-billable to Medicare. We would note that, in the example above, the provider could complete the Resumption of Therapy items to resume therapy after the patient's return, assuming the resumption was completed consistent with existing policies governing the definition of a resumption of therapy.

In the case of a COT OMRA, Day 7 of the COT observation period occurs 7 days following the ARD of the most recent PPS assessment used for payment, regardless if a LOA occurs at any point during the COT observation period. For example, if the ARD for a resident's 30-day assessment were set for November 7 and the resident went to the emergency room at 11:00pm on November 9, returning at 2:00pm on November 10, Day 7 of the COT observation period would remain November 14. With regard to payment, consistent with current policies related to the COT OMRA, the COT OMRA would set payment for those Medicare billable days beginning on Day 1 of the COT observation period and forward until the next scheduled or unscheduled assessment. Any days during which the resident was out on the LOA would remain non-billable to Medicare.

It should be noted that while these rules cover general cases of how the LOA policy would affect unscheduled assessments, specific cases may vary as to the which assessment is most appropriate given a specific LOA. Particularly in cases where a resident experiences frequent and/or extended LOAs, providers are encouraged to consider the causes for the LOAs and if these

causes might have some impact on the patient's care plan, the assessments appropriate to that resident, and the extent to which the resident requires the level of care necessary for the resident to qualify for the Part A SNF benefit. As noted in the preamble to the FY 2000 SNF PPS final rule (64 FR 41670, July 30, 1999, available online at www.gpo.gov/fdsys/pkg/FR-1999-07-30/pdf/99-19478.pdf),

. . . a beneficiary's ability to have frequent or prolonged absences from the facility may raise a question as to whether the beneficiary, as a practical matter, can only receive the care that he or she needs on an inpatient basis in the SNF. However, this is not the case when a beneficiary is capable of having only occasional, brief absences from the facility.

II. Change of Therapy (COT) Other Medicare Required Assessment (OMRA)

1. Clarification regarding when the COT OMRA policy will be effective.

Answer: It will be effective for all assessments with an ARD on or after October 1, 2011.

2. Clarification regarding when a COT OMRA is necessary.

Answer: A COT OMRA must be completed in cases where the intensity of therapy provided during the COT observation period is not reflective of the therapy category into which the resident is currently classified. For example, if a resident classified into Rehabilitation Very High and then receives more than 720 reimbursable therapy minutes during the COT observation period, then a COT OMRA would be necessary to categorize the resident into Ultra High Rehabilitation (assuming all other qualifiers for this category are met.)

3. Clarification regarding how the COT OMRA affects payment.

Answer: Once it has been determined that a COT OMRA is necessary, the new payment rate will be effective from Day 1 of the COT observation period and will continue until modified by a future scheduled or unscheduled assessment.

4. Clarification regarding the types of cases to which the COT OMRA applies.

Answer: The COT OMRA applies both in cases where the patient's RUG classification decreases or increases.

5. Clarification regarding when the COT observation period begins.

Answer: The COT observation period begins on the day following the ARD of the most recent scheduled or unscheduled PPS assessment. However, in cases where the previous assessment is an EOT with Resumption, then Day 1 is the date of resumption set in Item O0450B on the EOT-R.

6. Clarification regarding what should be considered as part of the "intensity of therapy" provided to a resident.

Answer: "Intensity of therapy" includes all qualifiers for a given therapy category, such as the RTM, days of therapy, therapy disciplines, and restorative nursing programs in the case of Rehabilitation Low.

7. Clarification regarding the term "therapy category".

Answer: The term "therapy category" refers to the ten major therapy divisions, which are

Ultra High Rehab Plus Extensive	Very High Rehab Plus Extensive
High Rehab Plus Extensive	Medium Rehab Plus Extensive
Low Rehab Plus Extensive	Ultra High Rehab
Very High Rehab	High Rehab
Medium Rehab	Low Rehab

8. Clarification regarding the consideration of ADLs as part of the COT evaluation process.

Answer: Changes in ADLs do not constitute in and of themselves a change in the therapy category and should not be considered as part of the COT evaluation process. Although ADLs are not considered when determining whether a COT OMRA is required, they will be included in the calculation of the RUG score if a COT OMRA is performed.

9. Clarification regarding the number of minutes outside the current RUG category a patient's therapy must be to require a COT OMRA.

Answer: Any amount of minutes which would constitute a change in the therapy category could necessitate a COT OMRA. For example, if a patient classified into Ultra High Rehabilitation receives 719 minutes of therapy during the COT observation period, then this would constitute a change in the resident's therapy RUG category.

10. Clarification regarding details of the COT evaluation process that facilities should use to determine the need for a COT OMRA

Answer: Each facility should determine for itself an appropriate COT evaluation process that may be used to determine if a COT OMRA is necessary.

11. Clarification regarding circumstances in which a COT OMRA can be combined with other assessments.

Answer: A COT OMRA can be combined with a scheduled PPS assessment. Moreover, when the ARD of a COT OMRA (that is Day 7 of the COT observation period) falls within the ARD window (including grace days) of a scheduled PPS assessment and the ARD for the scheduled assessment is not set for a day that is Day 7 or earlier in the COT observation period, then the COT OMRA and scheduled assessment must be combined.

12. Clarification regarding which item set is used if a COT OMRA is combined with a scheduled assessment.

Answer: In these cases, the item set for the scheduled assessment should be used.

13. Clarification regarding the situation when the last assessment before the COT OMRA occurred only 7 days prior to the COT OMRA, and whether facilities can choose to either use a different item set for the COT OMRA or to ignore certain items on the COT OMRA item set (e.g., patient interview questions, in some situations).

Answer: In order to capture accurately all of the necessary information on the COT OMRA that would be required to provide the appropriate RUG group, providers must complete the full COT OMRA (which as a standalone assessment uses the EOT OMRA item set) and may not skip the interview questions or any other areas necessary to complete the assessment.

14. Clarification regarding whether a COT OMRA is necessary when a resident misses 3 consecutive days of therapy and Day 7 of the COT observation period falls on one of the 3 missed days. (Example: A resident misses therapy Days 36-38 and Day 7 of the COT observation period is Day 37.)

Answer: In cases as described above, the necessity of a COT OMRA will depend on what day is used for the ARD of the EOT OMRA. In this example, if the ARD of the EOT OMRA is set for either Day 36 or Day 37, then a COT OMRA would not be necessary. If the ARD of the EOT OMRA is set for Day 38, then, in addition to the EOT OMRA, the COT OMRA would need to be completed, assuming there has been a sufficient change in the intensity of therapy.

15. Clarification regarding the types of patients for whom a COT OMRA should be considered.

Answer: A COT OMRA should be considered for all patients receiving any amount of skilled therapy services.

16. Clarification regarding the situation when a patient's therapy category changes, but the patient index maximizes into the same non-therapy RUG.

Answer: A COT OMRA is only necessary in cases when the patient's RUG classification used for billing would change as a result of changes in therapy.

17. Clarification regarding when the COT OMRA must be completed and submitted.

Answer: If deemed necessary, a COT OMRA should be completed no more than 14 days after the ARD for the COT OMRA. It must be submitted no more than 14 days after the date of completion. This is consistent with completion and submission requirements for all scheduled and unscheduled PPS assessments,

18. Clarification regarding the relationship between holidays (e.g., Christmas, New Year's, etc.) and the COT OMRA.

Answer: In cases where holidays fall within a COT observation period, holidays are considered as part of the 7-day COT observation period. Facilities should plan the therapy schedule accordingly to ensure that the resident receives the requisite therapy.

19. Clarification regarding how claims that include a COT OMRA will be identified.

Answer: The COT OMRA will be identified through the appropriate HIPPS code on the claim. The AI codes associated with the COT OMRA and all other PPS assessments are listed in the RAI manual.

20. Clarification regarding the existence of a "Medicare week".

Answer: The 7 day lookback period used for a COT observation period is determined based on the ARD of the patient's other assessments, not on a standardized weekly schedule.

21. Clarification regarding the situation when Day 7 of the COT observation period falls on the day of discharge.

Answer: If Day 7 of the COT observation period falls on the day of discharge, then a COT OMRA would not be necessary.

22. Clarification regarding completion of interview questions for a COT OMRA.

Answer: In relation to the interview questions on the COT OMRA, facilities may complete the resident interviews within a day or two of the ARD of the COT OMRA. If the interviews are not completed by this time, then facilities should use the staff assessment to complete that portion of the COT OMRA. We would note, however, that given the types of changes in the intensity of therapy that would prompt the need for a COT OMRA, facilities are expected to continually evaluate the therapy intensity for a given SNF resident and anticipate the possibility that a COT OMRA may be necessary.

23. Clarification regarding COT OMRAs with a non-compliant ARD.

Answer: As a general rule, COT OMRAs which contain a non-compliant ARD, which means that the ARD on the COT OMRA is set for something other than Day 7 of the relevant COT observation period, will be treated as if the ARD has been set late. As such, pursuant to the policy outlined in the FY 2012 SNF final rule (76 FR 48524), in the case of a late COT OMRA,

facilities should bill the default rate for all days that are not in compliance with the ARD requirement. For example, if the ARD for a COT OMRA is set for Day 9 (two days late), rather than Day 7, of the COT observation period, then the facility should bill the appropriate HIPPS code from the COT OMRA beginning on the day after the ARD of the last PPS assessment used for payment (or the date of resumption, in cases where the most recent assessment was an EOT OMRA that indicated a resumption of therapy) and for the following six days, which would be through the end of the COT observation period had the ARD been set for the appropriate day. Days 8 and 9 would be billed at the default rate to account for the days the COT OMRA was out of compliance and the next COT observation period would begin on Day 10.

III. Allocation of Group Therapy

1. Clarification regarding the definition of group therapy.

Answer: Group therapy is defined as a single therapist or therapy assistant providing therapy to four residents doing the same or similar activities at the same time.

2. Clarification regarding the situation when a facility had planned a group for four patients, but one patient got sick or refused therapy.

Answer: As long as the therapy session was planned for four residents, then the group session may continue. However, the group therapy minutes reported on the MDS will still be divided by four.

3. Clarification regarding when the group therapy policy will be effective.

Answer: On any assessments with an ARD on or after October 1, 2011, group therapy minutes will be allocated regardless of whether the look back period extends prior to October 1, 2011 However, to allow for a smooth transition for billing between FY 2011 and FY 2012, facilities will be given the appropriate FY 2012 RUG code on the final validation reports associated with assessments submitted after September 18th, 2011 with an ARD between August 22nd, 2011 and September 30th, 2011 in error message number 1059. For assessments with an ARD on or after October 1, 2011, the FY 2012 RUG-IV code listed in item Z0100 of the assessment will be validated and the appropriate FY 2011 RUG group will be provided on the final validation reports associated with these assessments in error message number 1060. Facilities should bill the appropriate FY 2012 RUG, which will have all group therapy minutes allocated, beginning on October 1, 2011.

4. Clarification regarding who is responsible for allocating the group therapy time a patient receives.

Answer: On the MDS 3.0, facilities should report the unallocated group therapy minutes. The RUG-IV grouper program will divide the reported minutes by four and provide the appropriate RUG-IV group based on the allocated group therapy minutes.

5. Clarification regarding whether the group therapy cap still applies and how it will be applied.

Answer: The group therapy cap will still apply and will be applied to the allocated group therapy time.

6. Clarification regarding whether it is possible for a student to provide group therapy and how it would be done.

Answer: It is possible for a student therapist to lead a group therapy session. In order for this to occur, the student must be providing the group therapy to all four residents and the supervising therapist cannot be supervising any other students or treating any patients.

IV. Revised MDS Assessment Schedule

1. Clarification regarding when the changes to the assessment schedule will be effective.

Answer: Any ARDs set for a day that is after October 1, 2011 must be in line with the updated assessment schedule. For example, when October 1, 2011 is Day 19, 34, 64, or 94 of the stay, the ARD for these assessments should be set for September 30 or earlier or the assessments will be considered late and payment penalties will apply.

2. Clarification regarding which schedule should be used on assessments for patients that were admitted prior to October 1, 2011 but remain in the SNF after that point.

Answer: If the ARD is set for prior to or on September 30, 2011, then the current MDS assessment schedule should be used. If the ARD is set for on or after October 1, 2011, then the ARD must be set in a manner consistent with the revised MDS schedule.

3. Clarification regarding whether SNFs are still permitted to use grace days and whether there is any penalty associated with using these days.

Answer: Grace days still exist under the revised assessment schedule. There is no penalty for using grace days.

V. Revised SNF End-of-Therapy (EOT) OMRA Policy

1. Clarification regarding the days used to determine if an EOT OMRA is necessary.

Answer: Any three consecutive calendar days when no therapy is given to a resident classified into a Rehabilitation plus Extensive Services or Rehabilitation RUG group, regardless of the reason, count toward the EOT OMRA.

2. Clarification regarding whether the facility always required to issue the patient an Advanced Beneficiary Notice (ABN) or a Notice of Medicare Non-Coverage (NOMNC) in situations where the only skilled service that a patient is receiving is therapy-related and the patient does not receive any therapy for three consecutive calendar days.

Answer: A facility is only required to issue the ABN or NOMNC in cases where the facility believes the resident will enter a non-covered stay. The ABN is intended to provide the beneficiary with sufficient time and information to make an informed decision regarding their treatment. Facilities must determine if there is a reasonable expectation that the SNF stay, or part of the SNF stay, will not be covered by the resident's Medicare Part A benefit.

3. Clarification regarding whether holidays count toward the EOT OMRA.

Answer: Yes, holidays count toward the EOT OMRA. Facilities should plan accordingly to ensure that residents receive therapy on a consistent basis.

4. Clarification regarding the minimum number of therapy minutes which constitute a therapy day.

Answer: If a patient receives 15 or more codable minutes of therapy in one discipline in a given day , including a therapy evaluation, then this would count as a therapy day.

5. Clarification regarding whether an EOT is necessary when one therapy discipline is discontinued or when all therapies are discontinued.

Answer: An EOT OMRA is necessary only when all therapies have been discontinued.

6. Clarification regarding whether an EOT-R can be combined with a scheduled assessment.

Answer: Yes, an EOT OMRA can be combined with a scheduled assessment.

7. Clarification regarding which item set is used when the EOT OMRA is combined with a scheduled assessment.

Answer: In such cases, the facility should use the item set for the scheduled assessment.

VI. End of Therapy with Resumption (EOT-R)

1. Clarification regarding whether the EOT-R is a new assessment type.

Answer: The EOT-R is not a new assessment type. It refers to a subset of items on the EOT OMRA, specifically two items (O450A and O0450B) that have been added to the existing EOT OMRA item set to permit facilities to report the resumption of a previous therapy program.

2. Clarification regarding when the EOT-R policy will go into effect.

Answer: Effective for all EOT OMRA assessments with an ARD on or after October 1, 2011.

3. Clarification regarding whether a new therapy evaluation is required if facilities choose to use an EOT-R.

Answer: A new therapy evaluation is not required in cases when an EOT-R is used.

4. Clarification regarding how payment is affected if an EOT-R is used.

Answer: In cases when an EOT-R is used, the facility should bill the non-therapy RUG given on the EOT OMRA beginning the day after the patient's last therapy session. The facility would then begin billing the therapy RUG that was in effect prior to the EOT OMRA beginning on the day that therapy resumed (O0450B).

5. Clarification regarding what day facilities should start billing the therapy RUG if they choose to resume therapy.

Answer: The therapy RUG should be billed from the day that therapy resumed, according to item O0450B on the EOT OMRA.

6. Clarification regarding the scenario when the therapy end date is in one payment period and the resumption date is in the next payment period.

Answer: As in all other cases where an EOT-R is used, the facility should bill the non-therapy RUG given on the EOT OMRA beginning the day after the patient's last therapy session and begin billing the therapy RUG that was in effect prior to the EOT OMRA beginning on the day that therapy resumed (O0450B). If the resumption of therapy occurs after the next billing period has started, then this therapy RUG should be used until modified by a future scheduled or unscheduled assessment.

7. Clarification regarding the situation when the EOT-R items must be completed, but the EOT OMRA has already been accepted into the QIES ASAP system.

Answer: If the EOT OMRA has already been accepted into the QIES ASAP system, then facilities should submit an assessment modification and complete item X0900 to indicate that the reason for modification is to add a resumption of therapy date. In such cases, the only change that should be made to the assessment is in items O0450A and O0450B.

8. Clarification regarding the situation when item O0450B is dashed.

Answer: While recording dashes in item O0450B is a permissible action, even if item O0450A is recorded as a resumption of therapy occurred, facilities cannot resume payment without a recorded resumption date. Therefore, for all intents and purposes, EOT OMRAs which have a dashed response for item O0450B will not be considered to have completed the appropriate EOT-R items to resume therapy, and therefore the assessment will be treated as a standard EOT OMRA.

VII. Revised Student Supervision Requirements

1. Clarification regarding which students should or should not be under line-of-sight supervision.

Answer: Facilities must still exercise discretion over which students are capable of operating outside of line-of-sight supervision and those that are not capable of doing so. Three major therapy associations have provided their recommendations for guidance on how students should be evaluated in SNFs, in terms of their ability to operate independent of line-of-sight supervision, which is available on the spotlight page of the SNF PPS webpage on the CMS website.

2. Clarification regarding when this change will be effective.

Answer: This change will be effective as of October 1, 2011.