2830 – Psychiatric Residential Treatment Facilities (PRTF) – Citations and Definitions

(Rev. 132; Issued: 01-16-15, Effective: 01-16-15, Implementation: 01-16-15)

2830A – Citations

Sections 1905(a)(16) and (h) of the Act provide that inpatient psychiatric services for individuals under age 21 include only inpatient services that are provided in an institution (or distinct part thereof) that is a psychiatric hospital as defined in section 1861(f) of the Act or in another inpatient setting that the Secretary has specified in regulations. Additionally, the Children's Health Act of 2000 (Pub. L. 106–310) imposes procedural reporting and training requirements regarding the use of restraints and involuntary seclusion in facilities, specifically including facilities that provide inpatient psychiatric services for children under the age of 21 as defined by sections 1905(a)(16) and (h) of the Act. (42 CFR 483.350(a)).

Condition of Participation (CoP). The Condition of Participation for PRTFs is contained in 42 CFR Part 483, Subpart G: Condition of Participation for the Use of Restraint or Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services for Individuals Under 21. **Appendix N** of this manual contains the Interpretive Guidelines for surveyors.

2830B – Definitions

A Psychiatric Residential Treatment Facility (PRTF) is defined as a facility other than a hospital, that provides psychiatric services, as described in subpart D of part 441 of this chapter, to individuals under age 21, in an inpatient setting. Sections 441.151, in subpart D of 42 CFR indicates that PRTFs must be accredited by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities (CARF), the Council on Accreditation of Services for Families and Children (COA), or by any other accrediting organization with comparable standards that is recognized by the State. PRTFs, as indicated in §483.374 must also have either a current provider agreement with the State Medicaid agency or if enrolling as a Medicaid provider must execute a provider agreement with the State Medicaid agency.

Inpatient Psychiatric Services for Individuals Under age 21 Benefit. – Inpatient psychiatric services for individuals under 21 is a Medicaid benefit as provided by section 1905(a)(16) of the Social Security Act, the provision of these services is an optional benefit for individual states. Although a state may choose to or not to offer PRTF services in its state plan, the benefit must be provided in all States to those individuals who are determined during the course of an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) screen to need this type of inpatient psychiatric care. Under the EPSDT provisions at section 1905(r)(5) of the Act, States must provide any service listed in section 1905(a) of the Act that is needed to correct or ameliorate defects and physical and mental conditions discovered by EPSDT screening services, whether or not the service is covered under the State plan.

Condition of Participation for the Use of Restraint and Seclusion. – PRTFs must

comply with the requirements of 42 CFR 483.350, subpart G in order to participate in the Medicaid program. The interpretive guidelines for the Condition of Participation may be found in Appendix N and include discussion of the following eleven standards of the Condition:

- General requirements for psychiatric residential treatment;
- Resident protections;
- Orders for the use of restraint or seclusion;
- Consultation with treatment team physician;
- Monitoring of residents in and/or immediately following restraint or seclusion;
- Requirements for notifying parents or legal guardians;
- Application of time out;
- Post-intervention debriefing;
- Medical treatment for injuries resulting from an emergency safety intervention;
- Facility reporting requirements;
- Facility's responsibility in educating and training its staff.

Emergency safety situation means unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention as defined in this section.

Emergency safety intervention means the use of restraint or seclusion as an immediate response to an emergency safety situation.

Minor means a minor as defined under State law and, for the purpose of this as defined in §483.352, includes a resident who has been declared legally incompetent by the applicable State court.

Resident means an individual under age 21(as described in subpart D of §441.151) receiving psychiatric treatment in a PRTF.

Restraint means a "personal restraint," "mechanical restraint"or"drug used as a restraint," as defined in this section.

Seclusion means the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

Serious injury means, any significant impairment of physical condition of resident as determined by qualified medical personnel. This includes but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

Staff means individuals who participate in caring for the resident, who have the responsibility for managing a resident's treatment and who are employed by the facility on a full-time, part-time, or contract basis.

Time out means the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing

the resident an opportunity to regain self-control.

Drug used as a restraint means any medication that is administered to manage a resident's behavior, which may have temporary effect of restricting the resident's freedom of movement; and is not a standard or routine treatment for the resident's medical or psychiatric condition.

2831 – Determination-Making Authority
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2831A – Survey Agency and State Medicaid Agency Interaction

Section 1902(a)(33) of the Act requires that the same State survey agency (SA) that certifies Medicare provider and supplier eligibility also make the determination of eligibility to participate in Medicaid. The law also requires that there be a separately designated single SA responsible for the overall management of the Medicaid program (42 CFR 431.610(b)). Therefore, in each State, a State Medicaid Agency (SMA) is ultimately responsible for Medicaid program administration. Each SMA enters into an interagency agreement with its certifying SA establishing the determination-making function of the SA and providing for the application of Federal certification standards and procedures.

In addition, 42 CFR 431.610(e) and (f) require that the Medicaid State plan must designate the agency that is responsible to ensure that institutions and agencies meet the requirements for participation in the Medicaid program. The SMA must accept the SA's certification decisions as final, but exercise its own determination whether to enter into an agreement with psychiatric residential treatment facilities (PRTFs), while if the SA determines the PRTF is out of compliance, the SMA may not enter into an agreement. The SMA is responsible for reviewing certifications to ensure that the SA adhered to procedural requirements. If the SMA disagrees with the SA's certification, the SMA should first contact the SA to resolve the issue. If the issue is not resolved after contact with the SA, the SMA should present the issue to the applicable CMS-Regional Office (RO). (See discussion in State Medicaid Manual (SMM) §2084.3A).

2831B – Authorization of Certification Expenditures

Authority to approve Medicare certification budgets and expenditures is delegated to the designated CMS Consortium or Regional Administrator(s). Authority to approve or disapprove Federal Financial Participation (FFP) in Medicaid certification expenses is delegated to the CMS Associate Regional Administrators or the Consortium Survey and Certification Officer where an Associate Regional Administrator is not present.

2831C – Look-Behind Authority on State Determinations

The Secretary has authority under §§1902(a)(33), 1919(g)(3), and 1910(b)(1) of the Act cancel approval of all Medicaid facilities that do not meet Federal health or safety requirements. Such a determination is in lieu of, or overrides a determination by the State and is binding on the SMA. Section 1902(a)(33) of the Act gives CMS the authority to

question State determinations regarding Medicaid facilities' compliance with Federal requirements and authorizes CMS to make independent and binding determinations concerning the extent to which individual institutions and agencies meet requirements for participation. CMS has the authority to "look behind" State determinations and, with cause, to make binding determinations. This authority allows CMS to validate State determinations concerning the extent to which individual institutions and agencies meet the requirements for participation (Section 1902 (a)(33)(B) of the Act).

This look behind authority accords CMS the ability to cancel the approval of a facility to participate in the Medicaid program when CMS determines the facility fails to comply substantially with the Conditions of Participation. (See Section 1902 (a)(33)(B) and SMM §2084.3). Also refer to 42 CFR Part 483, Subpart G for PRTF Conditions of Participation.

Another part of CMS's look- behind authority provides that a provider agreement is considered by CMS to be invalid for purposes of providing FFP to the State if the State failed to adhere to federal procedures. For example, the SMA may have issued the provider agreement even though the SA determined that the facility was not in compliance with the COP. In that case, the agreement is void from its inception. This authority is established by Section 1902 (a)(33)(B) of the Act. (See discussion of look behind authority in SMM §2084.3 and SOM §3042).

2831D – Appeals

2831D.1- State Appeals

A State has the right to appeal the Administrator's decision to withhold federal funds for Medicaid programs due to failure to comply with the Federal regulations; as stated in 42 CFR Part 430 Subpart D "(a) This subpart sets forth the rules for hearings to States that appeal a decision to disapprove State plan material (under §430.18) or to withhold Federal funds (under §430.35), because the State plan or State practice in the Medicaid program is not in compliance with Federal requirements. (b) Nothing in this subpart is intended to preclude or limit negotiations between CMS and the State, whether before, during, or after the hearing to resolve the issues that are, or otherwise would be, considered at the hearing. Such negotiations and resolution of issues are not part of the hearing, and are not governed by the rules in this subpart except as expressly provided."

2831D.2 – Facility Appeals

If a Medicaid-only facility requests a hearing, such hearing must be completed either before or within 120 days after the effective date of the adverse action. (See SMM §2040.) Detailed Medicaid appeal procedures are provided by the State. In the case of "look-behind" terminations, CMS notifies the facility of the termination and whether it has a right to request a hearing before a Federal Administrative Law Judge. Although a facility can appeal a look-behind determination that found the facility out of compliance with the conditions of participation, the facility has no right to request for an appeal in cases where CMS disallowed FFP on the grounds of an SA's improper or inappropriate certification of the facility. (See SMM §2084.3E).

2831E – Accreditation

Federal regulations at 42 CFR 441.151(2)(ii) require that PRTFs are to be accredited by the Joint Commission, the COA, the CARF or by any other accrediting organization with comparable standards that is recognized by the State.

2832 – Survey Agency, State Medicaid Agency, and PRTF Responsibilities & Obligations

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2832A – Attestations

State Responsibilities – The SA of the State which is surveying the PRTF inputs the initial attestation information into ASPEN, and continually thereafter.

- PRTF Responsibilities – PRTFs must submit attestation statements to each SMA where they have established a provider agreement.
- Attestation statements are to be submitted annually and are due on July 21st of each fiscal year. However, if July 21st occurs on a weekend or holiday, the attestation is due on the first business day following the weekend or holiday.
- Attestations must include the following information:
  - Facility General Characteristics: name, address, telephone number of the facility, and a State provider identification number;
  - Facility Specific Characteristics:
    + Bed size;
    + Number of individuals currently served within the PRTF who are provided service based on their eligibility for the Medicaid Inpatient Psychiatric Services for Individuals Under age 21 Benefit (Psych under 21);
    + Number of individuals, if any, whose Medicaid Inpatient Psychiatric Services Under 21 Benefit is paid for by any State other than the State of the PRTF identified in this attestation letter; and
    + List all States from which the PRTF has ever received Medicaid payment for the provision of Psych under 21 services.
  - The signature of the facility director;
  - The date the attestation was signed;
  - A statement certifying that the facility currently meets all of the requirements of Part 483, Subpart G governing the use of restraint and seclusion;
  - A statement acknowledging the right of the SA (or its agents) and, if necessary, CMS to conduct an on site survey at any time to validate the facility's compliance with the requirements of the rule, to investigate complaints lodged against the facility, or to investigate serious occurrences;
  - A statement that the facility will submit a new attestation of compliance annually and in the event a new facility director is appointed.

2832B – Plan of Correction (POC)

Regulations at 42 CFR 488.28(a) allow recertification of providers with deficiencies at the Standard or Condition level "only if the facility has submitted an acceptable Plan of Correction (POC) for achieving compliance within a reasonable period of time acceptable to the Secretary." Failure to submit a POC may result in termination of the provider agreement as authorized by §489.53(a)(1). After a POC is submitted, the certifying SMA, or in some cases the CMS Regional Office, makes the determination of the appropriateness of the POC for it to be acceptable.

2832C – Assigning CMS Certification Numbers (CCN)

A CCN code is assigned based on where the PRTF is physically located. Processing of requests for payment is usually keyed to the Federal identification number; however this identification number is for Online Survey, Certification, and Reporting System (OSCAR) tracking purposes only.

The certification numbers for PRTFs will have five digits and one letter. The first two digits identify the State in which the PRTF facility is located. This number is then followed by the letter L and is then followed by three digits and is numbered according to the order in which a facility was identified as a PRTF in their State. All State codes are listed in SOM §2779. For example, a PRTF located in Maryland would have a State code of "21." This would then be followed by the letter "L" and identified with a three digit number. For example, if it was the fourth PRTF identified by the State, the PRTF's CCN would be 21L004. (See SOM §2779B)

2832D – ASPEN Data Input

- The surveying SA has the responsibility of entering the survey data into ASPEN. After the CCN is assigned to the PRTF, the SA is to enter information received from the PRTF annual attestation as well as information from recertification or complaint surveys. It is also the responsibility of the SA to update the information as needed. The SA is to input information from Forms CMS- 1539, CMS- 670, CMS-2567 and if applicable, CMS-2567B.

- The initial input of information from attestation must be done by the SA of the State surveying the PRTF, even if the State in which the PRTF is located does not include the Inpatient Psychiatric Services for Individuals Under 21 Benefit in its State plan.

- Maintaining attestation and survey information is the responsibility of the SA conducting complaint and validation surveys.

2832E – Multi-State Issues & Interagency Relationships

2832E.1 – State-to-State Differences

There are several State-to-State differences in the provision of services for individuals who qualify for the Inpatient Psychiatric Services for Individuals Under 21 Benefit. The following factors determine where an individual receives services and who has surveying

responsibilities.

1. States may or may not have the Inpatient Psychiatric Services for Individuals Under 21 benefit in their State plan.
2. States may or may not have a PRTF within its borders.
3. States have an obligation to provide inpatient psychiatric services for individuals under 21 years of age regardless of whether or not the benefit is in their State plan or a PRTF is within its borders.

A State will either have the Inpatient Psychiatric Services for Individuals Under 21 Benefit in its State Plan or it will not. However, not all States will have a PRTF within its borders that can meet the needs of its Medicaid beneficiaries and thus will have to transfer beneficiaries to another State to receive the needed service.

Occasionally, a SMA may elect to send a patient out of State to receive the Psych Under 21 Benefit, (reference S&C Memo of July 3, 2013: 13-45-PRTF). It is the responsibility of the transferring SMA to ensure that these services are provided in a certified PRTF. In some instances, the facility selected (i.e., receiving facility) is located in a State that does not include PRTF services in its Medicaid State Plan and thus no facilities in that State are certified as PRTFs. If the transferring SMA still wishes to transfer the patient to such a facility, it must make a written agreement for the certification of that facility prior to the patient's transfer.

The initial certification of a PRTF is currently accomplished through an attestation process. The SA, through an agreement with the SMA, conducts surveys (Recertification, Complaint Investigation, and Validation) at least every five (5) years to ensure that the facility remains in compliance with the applicable regulations and the assertions of the attestation. The SA makes a recommendation to the SMA for re-certification or termination. The SMA enters into a written agreement with the PRTF.

If the certifying SMA of one State wishes to have a facility in another State certified as a PRTF, there are three options available for the SMA regarding the survey portion of the certification process:

- The SMA may make a written agreement with the SA of the State in which the facility is located to conduct the surveys of the facility;
- The SMA may make a written agreement with the SA located within their own State to travel to the receiving State to conduct the surveys; or
- The SMA may make a written agreement with any other SA to conduct the surveys of the facility.

SAs in States where the Medicaid State Plan does <u>not</u> include PRTF services may not have trained personnel or may not have the available resources to conduct these PRTF surveys since this is not a routine part of their workload. If the SMA of one State wishes to certify a PRTF in another State and approaches the other State's SA to conduct the survey activity, the other SA may agree if they feel they have the necessary resources or may decline if they feel they do not. They are under no obligation to perform the work for the SMA of another State.

If the SA from the State where the facility is located is not able to perform the survey activity, the SMA seeking survey of the PRTF may enter into a written agreement with any other State SA (including the SA located within in SMA's own State) that has the resources and appropriately trained personnel. The SA that conducts the surveys would then be responsible for inputting the survey information into ASPEN. The SMA requesting the survey will ensure that the survey information is entered into ASPEN and ensure that re-certification surveys are conducted at least once every five (5) years. The SMA requesting the survey has the authority to enforce non-compliance actions.

2832E.2 – Action for Non-Compliance and Termination

The SMA may take termination action against the PRTF if the SA determines the PRTF is not in compliance with the regulation or fails to appropriately report a death incident. If there are conflicting determinations between the SA and the SMA or there are conflicts that arise based on multi-state issues, then the applicable RO must be informed of the decisions. The RO will settle these conflicts before adverse findings are placed into ASPEN. In the case of multi-state issues, if the SA and the SMA are located in two different Regions, the applicable RO is defined as the RO for the state in which the SMA is located. The facility must submit their plan of correction to the SA of the State that conducted the survey.

If the survey findings do not rise to the condition level, but are only standard level deficiencies, it is still the responsibility of the surveying State to send their findings to the certifying SMA and the applicable Regional Office (RO). It is the responsibility of the certifying SMA to review and accept the facility's plan of correction.

2832E.3 – State Agency – Who Can Survey

The SMA identifies which agency is responsible for conducting survey and certification oversight for its PRTFs. Federal regulation requires that the Medicaid "State plan must designate, as the State authority responsible for establishing and maintaining health standards for private or public institutions that provide services to Medicaid beneficiaries, the same State agency that is used by the Secretary to determine qualifications of institutions and suppliers of services to participate in Medicare." (Emphasis added). (See 42 CFR 431.610(b)).

During surveys to determine compliance with the PRTF condition of participation, if findings show that the condition of participation for the PRTF is not met it is the responsibility of the SMA of the State that certified the PRTF to consider termination of the provider agreement. If findings do not rise to the condition level, but are standard level deficiencies, it is still the responsibility of the surveying State to send their findings to the SMA and the applicable RO. Facilities where standard level deficiencies have been found are required to submit a plan of correction to the surveying SA.

2833 – Survey Process

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2833A – Survey Types

2833A.1 – Recertification Surveys

SAs are required to validate the attestation statements for a 20 percent of all PRTFs in their state on an annual basis. Validation requires that the SA review attestation letters, conduct on-site review of PRTFs based on criteria established in 42 CFR 441.151 through 441.156, and determine compliance with federal standards and regulations, as set forth in 42 CFR 483, Subpart G and further discussed in the interpretive guidelines.

2833A.2 – Complaint Surveys

1. Immediate Jeopardy
The SA conducts an investigation of all allegations which may represent an immediate jeopardy situation within 2 working days of complaint receipt.

"Immediate Jeopardy," as defined in 42 CFR 489.3, is a situation in which the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident. "Serious injury" is defined as any significant impairment of the physical condition of the resident as determined by qualified medical personnel. The term "serious injury" can be equated with "abuse or neglect." Appendix Q lists abuse and neglect as a trigger to call an immediate jeopardy. Refer to appendix Q for complete guidance on immediate jeopardy. To determine if an immediate jeopardy situation is present and ongoing, an assessment of each complaint intake must be made.

Exception – If the SA receives a restraint/seclusion death report, the SA should complete the investigation of this report within 5 working days of receipt of survey authorization from the RO. This investigation involves both on-site and off-site review. The ACTS report should be reviewed to determine facility history.

2. Non-immediate jeopardy
For non-immediate jeopardy situations, the SMA in conjunction with the SA will establish a mechanism by which to prioritize the nature of complaints. The SA should assess facility compliance with the established standards and regulations as provided in 42 CFR part 483 subpart G, (§§483.350 through 483.376) with additional guidance at §§441.150 through 441.156. If a complaint is received by CMS, CMS will notify the appropriate SA, who will then notify the SMA about the complaint, any ongoing investigation, findings, or decision regarding the complaint.

The SMA must report all serious occurrences, as defined in 42 CFR 483.374(b), to its SA and the SA must conduct both recertification and complaint surveys based on regulations established by the 42 CFR 483 subpart G and further discussed within the interpretive guidelines as established in **Appendix N**. The SA will be advised annually in the CMS Mission and Priority Document (MPD) on the expected validation requirements for its State's psychiatric residential treatment facilities.

2833B – Survey Frequency

1. Frequency – The SAs are required to conduct recertification surveys for 20 percent of all PRTFs in the state each year and for all PRTFs within a State within a 5-year period. Complaint surveys do not count towards a State's 20 percent required recertification surveys.

2833C – Survey Procedures

Pre-survey procedures, onsite survey procedures, required CMS forms, and the interpretive guidelines are located in **Appendix N**.

2833C 1 PRE-SURVEY PROCEDURES

Under CMS policy, surveys for all providers and suppliers must be unannounced. While the unannounced surveys may sometimes result in some minor difficulties, this policy and practice represents public attitudes and expectations toward effective compliance with the regulation and survey standards. If there is any conflict with internal State policies and practices, the State survey agency (SA) should discuss the problem with its State Medicaid Agency (SMA).

2833C.2 ON-SITE SURVEY PROCEDURES

2833C.2a ENTRANCE CONFERENCE

The entrance conference sets the tone for the entire survey. The surveyor should be well prepared, courteous, and make requests, not demands. Upon arrival, the surveyor does the following:

- Presents the appropriate identification;
- Introduces other team members who must also furnish appropriate identification;
- Informs the facility's administrator, director, or supervisor of the purpose of the Survey;
- Provides expected duration and time schedule of the survey; and
- Provides the facility with an overview of the survey and explains the process.

During the entrance conference, the surveyors should:

A. Request a listing of all residents at the facility, including their age or date of birth, and who in the past 12 months:

- Have been secluded or restrained;
- Have been placed in time out;
- Received medication for behavior management;
- Have been injured or hospitalized as a result of restraint or seclusion intervention;
- Had a serious occurrence that was reported regardless of whether it is related to a safety intervention. A Serious occurrence as defined in the regulations is a resident's death, serious injury to a resident, or a resident's suicide attempt;

- Was transferred to a hospital for acute care services; and
- Died while in the facility.

B. Inform the facility that the survey process will include:
- A physical onsite tour of the facility;
- Direct observations, and interviews with residents, families/guardians, and personnel involved in the residents' care, (ask that appropriate family and guardians be made aware of potential interviews); and
- Review of relevant program, treatments, and residents records.

C. Establish personnel availability and discuss approximate time frames for survey completion.

D. Provide approximate or expected exit date and time.

E. Ask if there are any locked areas which require a key for entry, and if there are locked areas, how would the surveyor be able to access those areas.

F. Ask the facility to identify which staff will be available for questions/assistance.

G. Provide a list and category of the facility staff the surveyor will need to interview during the course of the survey.

2833C.3. Survey Team Composition

Survey team size and composition will vary according to the size of the facility and the purpose of the survey. Professional disciplines and experience represented on the survey team should reflect the expertise needed to determine compliance with the CoP. All survey team members must meet education and training qualifications as specified in the SOM §4009 and must have successfully completed the CMS Basic PRTF survey training course.

Any SA or federal surveyor who serves on the PRTF survey team must have completed the PRTF basic survey training course successfully.

2833C.4- INFORMATION GATHERING

2833C.4a TASK 1 - REPRESENTATIVE SAMPLE OF RESIDENTS - SELECTION METHODOLOGY

Purpose of the Sample - The purpose of drawing a sample of residents from the facility is to ensure all the regulatory requirements is applied to a proportionate representation of all residents. The sampling methodology outlined below is not intended to create a "statistically valid" sample. The methodology allows for flexibility in sample selection based on the surveyor's observations while on-site at the facility.

The surveyor must conduct interviews and observations of the sampled residents within

the context of the environment in which the resident lives, receives treatment and spends leisure time. Although focus should be on the sampled residents, the behavior and interactions of all other residents and staff within the environment also contributes to the total context.

After the resident sample is collected, additional information about the facility's practices, as well as additional resident information may emerge. Surveyors may add residents to the sample based on observations or incidents that occur during the survey. The reason for adding residents to the sample must be documented. Surveyors must add any resident who is restrained or secluded during the survey to the sample. A resident substitution may be made in the sample only if it is determined that including such a resident in the sample would negatively impact his/her treatment. For example, when interviewing/observing a resident with diagnosis of paranoid schizophrenia, may result in acute exacerbation of psychiatric symptoms. When a substitution is made within the sample, surveyors must ensure that the resident added to the sample meets the same requirements, and is selected from the same age group as the resident he/she is replacing.

Sample Considerations–

- Survey team should not allow the facility to select the resident sample.
- Sample selection should be completed before beginning review of residents or other survey activities.
- Survey team must randomly select sample from the list of all the residents provided by the facility.
- The sample should represent various age groups of the facility residents. The three main age groups are: ages 18 to 21; 9 to 17 and under 9 years.
- The sample should include residents who experienced restraint, seclusion or time-out in the past 12 month (if any); these residents should make up at least 50% of total sample.

Sample Selection:
Follow the guidance below using the appropriate ratio to select and calculate the size of the sample.

Census:	Sample Ratio:
4-8 residents	4 residents
9-16 residents	6 residents
17-50 residents	8 residents
51 or more residents	10 residents

NOTE:

- Due to unique characteristics the PRTF population and the seriousness of the Condition of Participation, surveyors should investigate further when a facility reports they have no current residents who have experienced either an ESI or time out procedure.

To maximize the advantage of an interdisciplinary survey team, the survey team leader assigns each member an equitable number of individuals on whom to focus. Each member of the team shares salient data about findings relative to his or her assigned individuals. Consult with one another, on a regular basis during the survey, to maximize sharing of data, knowledge and competencies.

Documentation – Document the sample on form CMS-807 Surveyor Notes Worksheet - The team leader must ensure that information related to the sample is well documented and includes the following:

1. Summary listing of all resident information comprising the survey sample (including any additions or substitutions to the sample). At a minimum, identify:
   - The record number of each resident chosen to be part of the sample;
   - Any resident-identifier codes used as a reference to protect the resident's confidentiality; and
   - The record number of each death record reviewed.

2. Description of the representative sample selection must include:
   - The number of residents in the sample;
   - The distribution of the individuals in the sample;
   - The number, if any, of the residents added to the sample, including the reason added,e.g., complaint investigation; and
   - The number, if any, of the residents substituted in the sample, including the reason for withdrawing the original resident record.

2833C.4b TASK 2 - RECORD REVIEW OF INDIVIDUALS IN THE SAMPLE

Review each resident's record to determine appropriate compliance with the condition of participation (CoP) for the use of restraint or seclusion, and the regulation requirements in 42 CFR §§ 441.151 through 441.182. The primary purpose of the record review is to determine if the facility is complying with the requirements of:

1) Certification of need for services;
2) Individual plan of care (treatment plan);
3) Documentation of emergency situation and all events surrounding it;
4) Management and outcome of emergency safety intervention; and
5) Health and wellness of the residents.

During record review, surveyors should be alert to instances of intramuscular medication use, safety hold and escort procedures, and any other procedures that could be mislabeled as not being restraints or seclusion. Utilize direct observations, resident interviews and record review to make informed compliance decisions. Ensure that the facility's definitions and perception of seclusion and restraint is in consonance with the definition that is contained in the regulation.

While reviewing the records, pay attention to key requirements such as: compliance with treatment team members' credentials, facility/program accreditation, and trends that may

suggest that seclusion and restraint intervention are being overused or misused. Also look for records of accidents and incidents which may suggest resident's abuse, neglect, bullying or vulnerability to injury. If there is any evidence of physical, verbal, emotional, or sexual abuse; surveyors must follow-up on the status and if required, implement the immediate jeopardy procedure as directed by Chapter 5 and Appendix Q of the SOM.

2833C.4c TASK 3- REVIEW OF OTHER RECORDS

A. Death Records - Review a list of all resident deaths, in the past 12 months. All team members must participate in the record review of residents who have died while at the facility. For death records, refer to form CMS-726, CMS Death Record Review Data Sheet. Evidence should exist of documented contact with appropriate Federal, State and local agencies notifying of the circumstances and demographics surrounding the resident's death and resulting outcomes from investigation by the PRTF and/or any of the appropriate Federal, State or local agencies.

B. Complaint Investigations - If a complaint is being investigated at the time of the survey, include the record(s) of the resident(s) of the complaint as part of the record review. If the resident named in the complaint is still in the facility, add him/her to the sample.

C. Policy and Procedures – Review the facility's policy and procedure documents on restraint, seclusion, and time out interventions. The policy must contain information about management of emergency safety intervention (ESI), and the facility's procedures regarding all the requirements of the CoP.

D. Serious Injury and Occurrence Report– Review all PRTF's serious injury and occurrence reports for at least past twelve months prior to the date of the present survey. Some individual state laws may preclude the facility from sharing detailed records of the incident. In such case, provide PRTFs an option as to whether or not they share these actual reports. In these States, surveyors should request a written summary of these reports. The PRTFs should provide this summary, as well as a copy of or citation to the applicable state law, within one working day of the entrance conference.

2833C.4d TASK 4 - DIRECT RESIDENT OBSERVATIONS

The purpose of direct observation is to determine the existence of effective therapeutic relationship between the facility staff and the residents. Staff must respect the rights of the residents and interact with them in a mutually productive manner. Direct observation also helps to determine how effective staff manages the milieu and efficiency of the application of de-escalation and other behavior management techniques. De-escalation techniques include: limit setting, therapeutic communication, redirection, conflict resolution, active listening techniques, and visualization.

Observe each sampled resident in as many treatment settings (therapy groups, activities, treatment team meetings, other types of meetings, and milieu interactions in the resident's environment) as possible. Visit as many treatment areas as time permits, and observe residents' activities during different time periods, including day and evening hours, if

possible; for team member's convenience or preference. Surveyors must never request the facility to alter a resident's schedule so that the surveyor will not have to work at other than their regular work times in order to observe the resident during the survey. The observation should be conducted for an amount of time sufficient to assess the sampled resident's responses and behaviors as well as staff responses to resident behaviors.

Documentation - If during resident observation the process of documentation will disrupt the activity in progress, the best option is to document after the observation is completed. Form CMS-3070I is an optional form but can be used to record observations if the surveyor so chooses. After observations are completed, compare observation result with the program/individual treatment plan for consistency.

Record the following information for each observation:

- Date and location;
- Beginning and ending times of observation;
- Number of residents present;
- Approximate number of staff present
- What the resident is doing (regardless of whether or not a scheduled therapeutic modality was in progress);
- What the staff is doing;
- The presence of disruptive behavior, and staff's intervention, if any; and,
- Any other pertinent information.

2833C.4e TASK 5 INTERVIEWS

Resident Interviews

Surveyors must interview all sample residents individually. However, an interview may not be conducted with a resident when it is determined by one of the individual plan of care team members, as described in §441.156(c), as being inappropriate for the resident's condition. Staff information and medical record documentation should support the rationale for not interviewing the resident.

When interviewing residents of a PRTF a surveyor should take into consideration the resident's age and psychiatric condition. Interviews with residents consist of questions directed at determining the resident's understanding of the treatment services indicated in their individual care plan and progress towards goals, type and quality of relationship with program staff, and their restraint or seclusion episode. In addition, the resident should be asked to what degree they felt safe while restrained or secluded and if they feel as if staff are working with them to prevent future restraint or seclusion usage.

Also ascertain if the resident felt that the restraint or seclusion was warranted based on their behavior. Interviewing should not take place in the direct presence of staff. However, a resident should be given an opportunity to have a staff member be within visual proximity if the resident so chooses. When an interview is deemed inappropriate by the facility staff, the survey activities for review of that resident will consist of observations, staff interviews, and record reviews. Resident confidentiality must be

respected, but if the surveyor does find a life-threatening situation, that information is shared with the staff. Listed below are suggested processes and questions that a surveyor may use during an interview.

Interview Setting:
Surveyors must respect resident's rights and ensure the setting of the interview is conducive and less restrictive. The surveyor should:

1. Request permission of the resident to talk with him/her individually.
2. Provide the resident with information, such as surveyor name and purpose of the survey.
3. Ensure resident privacy by conducting the interview in an appropriate location (low stimulus, on or off unit depending on resident restrictions, staff visible for surveyor and resident protection, if necessary). Staff should be easily available and may be present in the room, but should not be able to overhear conversation unless the resident makes a request for staff close physical presence.

Suggested Interview Questions:

- Can you tell me why you are in this facility?
- Tell me about your treatment goals?
- Do you think you are making progress towards your treatment? Can you tell me the names of your medications and why you are taking them?
- Do you have the opportunity to talk to members of your treatment team on a regular basis and how responsive are they to your interaction?
- Can you describe to me your experience with the last time you were restrained/ secluded/ in timeout?
- Where was staff located during your restraint/seclusion/ time out?
- Has the treatment team discussed the incident with you? Did you and the team agree on a plan to reduce the frequency of these incidents? Please describe the plan to me.
- Describe to me what incident that led to the restraint/seclusion/time out?

Age Appropriate Adjustments – Surveyors should keep in mind varying age range of residents in the PRTF (toddlers to adolescents or young adults) and adjust their interview approach accordingly for a better result. For example, there are times when kneeling or sitting in a chair may be less intimidating to residents, and more appropriate to begin a conversation. Also the way a question is framed may determine how much information one can elicit, for instance, instead of asking: "Can you tell me why you are in this facility?" The question can be reworded into different series of probing questions to get at a better answer. For example, "Do you like living here?" "Do you know why you are living here?" "Can you tell me about living here?" It is important to note that different facilities and residents may perceive or interpret restraint/seclusion intervention based on their own understanding and frame of reference.

Staff Interviews

Because milieu interaction and therapeutic intervention involve both the staff and the residents, it is also important to interview the staff in order to ascertain their level of

knowledge and understanding of the facility's restraint and seclusion policies and procedures. In order to ensure improved safety, staff must be adequately educated and oriented to their work environment. Staff should also be familiar with resident treatment plans and understand their role in facilitating the residents' attainment of the target treatment goals. Assess for consistent treatment approaches and collaboration among the interdisciplinary treatment team, as well as the outcomes experienced by the residents. Interview the following:

- Treatment team member who has assigned treatment responsibility for each sample resident (case manager, primary therapist, resident care coordinator, advocate); and

- Other staff members who are involved with the resident, either through multidisciplinary treatment assignment (social worker, dance therapist, dietician) or through work assignment (professional and paraprofessional staff members assigned to resident's unit).

During staff interviews, asking the following questions may help to elicit improved cooperation and more information:

- Do you participate in the interdisciplinary treatment team; if yes, what role do you play?
- Did you contribute to treatment plan objectives/goals for sample residents and updates?
- How often is each resident's treatment plan reviewed?
- Can you describe the discharge plans for sample residents?
- Give examples of de-escalation techniques you were taught and how you utilize them when dealing with residents?
- How do you integrate treatment plan goals and objectives that have been developed as a result of seclusion or restraint episodes?
- How do you manage resident's emergency safety situation, and how you determine when to utilize a restraint or seclusion intervention?
- Describe to me, how staff implement, manage, and discontinue time out, restraint or seclusion.
- What behavior typically warrants interventions such as restraint or seclusion?
- Do you feel you are adequately prepared (through education and training) to handle behavioral safety situations and emergencies related to residents' care?

Interviews with Parents and Legal Guardians

Surveyors will make a request to facility/program staff after the entrance conference to give sample residents family/guardian notice of a potential for interview. The interviews with parents and legal guardians should be conducted in addition to interviews with sampled residents. Interviews with parents and legal guardians should be conducted at their convenience with an opportunity for face-to-face interviews when feasible. In cases where parents or legal guardians reside in another state or are unable or unwilling to meet face-to-face, telephone interviews should be conducted. Suggested questions:

- Were you involved in formulation of your family member's treatment plan and

discharge plans?

- Are you aware of the psychiatric medications your family member is taking and/or being prescribed while in treatment?
- Have you been able to communicate with members of your family member's treatment team?
- Do you know your family members treatment diagnosis, and do you understand what it means?
- Were you informed of the facility's policy on restraint and seclusion?
- Was the information presented in a manner that you could understand?
- Did you receive the information regarding the State Protection and Advocacy organization? What type of information should be reported to them?
- Were you contacted after a restraint or seclusion intervention?
- Were you given an opportunity to participate in the debriefing following restraint/seclusion use?

Interviews with Department Heads and/or Facility Administrator

Conduct these interviews near the end of the survey if it is determined that questions were unanswerable by facility staff and interviewing directors or other facility leaders would prove useful to the survey process and the gathering of information. Base the interview on information that was gathered during observations and direct interviews with residents and staff.

Documentation – Use form CMS-807 to record each observation and interview conducted with residents/ parents/ legal guardians and staff. Clearly delineate the documentation as an interview. Include the date and time of each interview and the following information in every recorded entry:

Resident:

- The record number, any resident-identifier codes used as a reference to protect the resident's confidentiality, and the resident's age;
- Dates of restraint, seclusion or time out; and,
- Summary of information obtained.

Parent/ Legal Guardian:

- Relationship to the resident;
- Method of interview (face-to-face or telephone contact); and,
- Summary of information obtained.

Staff/ Management/ Directors:

- Position, title and assignment of staff member;
- Relationship to the resident or reason for interview; and,
- Summary of information obtained.

2833C.4f TASK 6 - VISIT TO EACH AREA OF THE FACILITY SERVING RESIDENTS

Visit all areas in the facility where residents are permitted to spend their time, both structured and unstructured, as these are places where unanticipated behavior may occur that would require emergency interventions. Also examine the area that is used for restraint as well as those devices that the facility uses as a restraint. Other examples of areas to visit are: restrooms, bathrooms, activity areas, visitation areas, therapy rooms, seclusion/time-out room, dining areas, bedrooms, and classrooms. During the visit or tour, converse with residents and staff. Ask open-ended questions in order to confirm observations, obtain additional information, or corroborate information regarding perceived problems. Observe staff interactions with both residents and other staff members for insight into matters such as individual rights and staff responsibilities.

Protocol - After residents in the sample have been assigned to team members, review the facility's map or building layout. Be sure that at least one team member visits each residential and treatment unit prior to completing the survey. The visit or tour can be conducted at any time during the course of the survey. Always obtain permission from the resident before entering his/her room.

2833C.4g TASK 7 – COMPLIANCE DETERMINATION AND PREPARATION FOR EXIT CONFERENCE

Preparation for Exit Conference.—In preparation for an exit conference, the surveyors should hold a pre-exit survey team conference at the conclusion of the survey and prior to the facility exit conference. The survey team leader must ascertain that all survey team members have completed their respective survey tasks before the pre-exit meeting. At this meeting, the surveyors will share their respective findings, and make team decisions regarding compliance with each standard, requirement, and Condition of Participation. Deficiencies found in more than one aspect of the CoP may be cumulative and interrelated and result in general or across-the-board inadequacies in resident care that may constitute actual or potential hazards to residents. The team leader should record the survey team decisions on the CMS-807 as a record of the team's non-compliance determinations. This would be the basis for a finding of noncompliance. All necessary forms must be completed, which may include:

CMS-807 - Surveyor Notes Worksheet
CMS-2567 - Statement of deficiencies and Plan of Correction (Post Survey)
And if applicable
CMS-726 - CMS Death Record Review Data Sheet
Optional
CMS-30701 - Individual Observation Worksheet

General - It is recommended to complete the CMS-2567 as a post survey document. Include in the CMS-2567 all examples of evidence obtained from observations, interviews, and record reviews that contribute to a determination that the facility is deficient in a certain area.

Special Circumstances - If at any time during the survey one or more team members

identify a possible immediate jeopardy, the team should meet immediately to confer. See Appendix Q for the definition of and for guidance regarding determination of immediate jeopardy.

Exit Conference. — Following the survey team meeting to determine compliance, the survey team should conduct an exit conference with the PRTF's administrator, designee, and other invited staff. The purpose of the exit conference is to communicate preliminary survey team findings.

Although it is CMS' general policy to conduct an exit conference, be aware of situations that may justify discontinuation of an exit conference. For example, if the PRTF is represented by a lawyer (all participants in the exit conference should identify themselves), surveyors may refuse to conduct or continue with the exit conference if the facility lawyer tries to turn it into an evidentiary hearing, or the staff creates an environment that is hostile, overly intimidating, or inconsistent with the informal and preliminary nature of an exit conference. Refer to §2724 of the SOM.

2834 – Other Applicable SOM Sections

(Rev. 132; Issued: 01-16-15, Effective: 01-16-15, Implementation: 01-16-15)

The following procedures already established in various Chapters within this manual serve as a basis for direction for the SA.

- SOM §3010: Termination Procedures – Immediate and Serious Threat to Patient Health and Safety (23 Calendar Days).
- SOM §3012: Termination Procedures – Noncompliance with one or more CoPs or Conditions for Coverage and Cited Deficiencies Limit Capacity of Provider/Supplier to Furnish Adequate Level or Quality of Care (90 Calendar Days).
- SOM §3060: Appeals of Adverse Actions for Medicaid Non-State operated NFs (Non-State Operated) and ICF/IIDs (Not Applicable to Federal Termination of Medicaid Facilities)
- SOM §5200 Investigation of Complaints Against Other than Accredited Providers and Suppliers. Although on its face this section applies to non-accredited providers and suppliers, we believe this section is better suited for PRTFS.
- Appendix Q – Guidelines for Determining Immediate Jeopardy – "these guidelines apply to all certified Medicare/Medicaid entities…and to all types of surveys and investigations…"
- SOM §4009 Federal Surveyors Qualification Standards

Transmittals Issued for this Chapter

Rev #	Issue Date	Subject	Impl Date	CR#
R179SOMA	07/06/2018	Revisions to the State Operations Manual (SOM) Chapter Two for Organ Procurement Organizations (OPOs)	07/06/2018	N/A
R164SOM	11/04/2016	Revisions to the State Operations Manual (SOM) Chapter 2	11/04/2016	N/A
R154SOM	06/10/2016	Revisions to the State Operations Manual (SOM) Chapter 2	06/10/2016	N/A
R152SOM	03/25/2016	Revisions to the State Operations Manual (SOM) Chapter 2	04/04/2016	N/A
R150SOM	10/30/2015	Revisions to State Operations Manual (SOM), Chapter 2, Clarification of Requirements for Off-Premises Activities and Approval of Extension Locations for Providers of Outpatient Physical Therapy and Speech-Language Pathology Services	10/30/2015	N/A
R146SOM	09/04/2015	State Operations Manual (SOM), Section 2185- Home Health Agencies (HHAs), Change of Address to a Medical Administrative Contractor (MAC) within 90 Days	09/04/2015	N/A
R143SOM	07/31/2015	Revisions to State Operations Manual (SOM) Chapter 2, The Certification Process and Appendix W, Survey Protocol, Regulations and Interpretive Guidelines for Critical Access Hospitals (CAHs) and Swing-Beds in CAHs	07/31/2015	N/A
R139SOM	04/24/2015	Revisions to the Medicare State Operations Manual (SOM), Chapter 2, Rural Health Clinic Certification	04/24/2015	N/A
R132SOM	01/16/2015	New Additions to State Operating Manual (SOM), Psychiatric Residential Treatment Facilities (PRTF) Chapter 2	01/16/2015	N/A
125SOM	10/31/2014	Revisions to State Operations Manual (SOM) Chapter 2	10/31/2014	N/A
123SOM	10/03/2014	Revisions to State Operations Manual (SOM) Chapters 1, 2 and 3	10/03/2014	N/A
R111SOM	04/11/2014	State Operations Manual (SOM) Chapter 2 Policy Revisions For Organ Procurement Organizations (OPOs)	04/11/2014	N/A

R91SOM	09/27/2013	State Operations Manual (SOM) Chapter 2 Policy and Nomenclature Revisions for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)	09/27/2013	N/A
R90SOM	08/30/2013	State Operations Manual, Chapter 2, Section 2256A,CAH Distance Criteria	08/30/2013	N/A
R85SOM	07/19/2013	Federally Qualified Health Center (FQHC) Medicare Participation	07/19/2013	N/A
R83SOM	03/15/2013	Revisions to Appendix E and Chapter 2 sections 2290-2308 of the State Operations Manual (SOM)	03/15/2013	N/A
R82SOM	08/01/2012	CMS Certification Numbers for Medicaid-Only Hospitals and new State Code for Foreign Countries	08/01/2012	N/A
R73SOM	12/02/2011	Revisions to Chapter 2, "The Certification Process", Sections 2082-2089-"Hospices"	12/02/2011	N/A
R69SOM	12/15/2010	Revisions to Chapter 2, "The Certification Process", Sections 2080-2089-"Hospices," and Appendix M, "Guidance to Surveyors, Hospices"	10/01/2010	N/A
R65SOM	10/01/2010	Revisions to Chapter 2, "The Certification Process", Sections 2080-2089-"Hospices," and Appendix M, "Guidance to Surveyors, Hospices" - Rescinded and replaced by Transmittal 69	10/01/2010	N/A
R62SOM	07/30/2010	New State Code for Missouri; New CCN for Medicaid -Only Hospitals	01/03/2011	6989
R57SOM	01/29/2010	Revised Chapter 2, "The Certification Process", Section 2256H	01/29/2010	N/A
R53SOM	10/16/2009	Revising Chapter 2, "The Certification Process"-Ascertaining Compliance With the Office for Civil Rights (OCR) Requirements	10/16/2009	N/A
R49SOM	06/12/2009	New Critical Access Hospital (CAH) Requirements Under 42 CFR 485.610(e) Related to CAH Co-location and CAH Provider-based Locations	06/12/2009	N/A
R43SOM	05/01/2009	Revised Chapter 2, "The Certification Process," Section 2008A	05/01/2009	N/A
R40SOM	03/20/2009	Revisions to Chapter 2, "The Certification Process", Sections Relating to Federally Qualified Health Centers, and Exhibits 177 and 179	03/20/2009	N/A

R33SOM	03/21/2008	Update to Chapter 2, "The Certification Process" Sections 2021 and 2022	03/21/2008	N/A
R32SOM	01/18/2008	Revisions to Chapter 2, "Critical Access Hospitals (CAHs) and Appendix W, "Survey Protocol, Regulations and Interpretive Guidelines for Critical Access Hospitals (CAHs) and Swing-Beds in CAHs"	09/2007	N/A
R29SOM	10/12/2007	New Number Series and State Codes for CMS Certification Numbers (formerly OSCAR Provider Numbers)	10/01/2007	5490
R28SOM	09/07/2007	Revisions to Appendix D, Guidance to Surveyors for Portable X-ray Services	09/07/2007	N/A
R25SOMA	04/20/2007	New Number Series and State Codes for CMS Certification Numbers (formerly OSCAR Provider Numbers) – Replaced by Transmittal 29	10/01/2007	5490
R17SOMA	01/20/2006	Revisions to Chapter 2 The Certification Process	01/20/2006	N/A
R16SOMA	01/10/2006	Revisions to Chapter 2, "The Certification Process," Appendix E--"Providers of Outpatient Physical Therapy or Outpatient Speech Language Pathology (OPT/OSP) Services," and Appendix K-- "Comprehensive Outpatient Rehabilitation Facilities"	11/21/2005	N/A
R13SOM	10/21/2005	Revisions to Chapter 2, "The Certification Process," Appendix E-- "Providers of Outpatient Physical Therapy or Outpatient Speech Language Pathology (OPT/OSP) Services," and Appendix K-- "Comprehensive Outpatient Rehabilitation Facilities" -- Replaced by Transmittal 16	10/21/2005	N/A
R11SOM	08/12/2005	Revised Chapter 2--"The Certification Process," Sections 2180E thru 2200F, and Appendix B--"Interpretive Guidelines: Home Health Agencies"	08/12/2005	N/A
R06SOM	04/29/2005	Expansion of State Codes for OSCAR Provider Numbers	10/03/2005	3844
R03SOM	10/29/2004	Medicare Systems Acceptance of New Provider Numbers for Federally Qualified Health Centers (FQHC)	04/04/2005	3537
R02SOM	08/20/2004	Assignment of Provider Identification Numbers	N/A	3245

R01SOM	05/21/2004	Initial Issuance of Pub 100-07	N/A	N/A