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August 16, 2004

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To: All Medicare-Certified or Medicaid-Certified Nursing Facilities or Skilled Nursing Facilities

Re: Provider Letter #04-23 – Resident Notification of Transmission of the MDS

This letter is to inform nursing facility providers that it is their responsibility to notify nursing facility residents or a resident's responsible party that the facility is required to collect, encode and transmit Minimum Data Set (MDS) data to the state and Centers for Medicare and Medicaid Services (CMS) databases. This requirement affects all resident payer sources.

The Privacy Act of 1974 requires that all residents for whom information is collected be notified, either on the form the facility uses to collect the information or on a separate form. CMS has provided an example of a notification form on the following website: <http://www.cms.hhs.gov/medicaid/mds20/mdsprvsj.asp>.

The Privacy Act does not require that a facility obtain the resident's signature acknowledging that he or she received the above information. However, the facility may request that the resident or the resident's responsible party sign a statement of acknowledgment.

If you have questions about the content of this letter, please contact Angela Chisholm, RN, Clinical MDS Coordinator, at 512-438-2003.

Sincerely,

[signature on file]

Veronda L. Durden
Acting Assistant Deputy Commissioner
Long Term Care-Regulatory

VLD:skp