

Response to the AHCA comments on CMS-10243, OMB 0938-1037

The commenter is the American Health Care Association/National Center for Assisted Living (AHCA/NCAL). They represent over 13,000 nursing facilities or assisted living providers, largely from the for-profit provider communities. They offered three comments focusing on: 1) whether the FASI scored individual ability or performance, 2) how to score the individual if they have been recently ill or otherwise having unique experiences during the past 3 days, and 3) the importance of coordinating these proposed items with other efforts related to these same populations, such as the HCBS rules and managed care rules.

- 1) **Ability may be different from performance.** AHCA thought this could be an opportunity to encourage self-performance if the items were coding on the basis of ability v. performance. We note that unless someone chooses to not do an activity, these should be the same.
- 2) **Look-back period may not reflect usual performance if acute illness has occurred.** AHCA misunderstood the directions and thought that everyone would be coded regardless of whether their immediate past performance was mitigated by illness or other unusual circumstances. We replied that the person is not assessed in those situations.
- 3) **Coordination with other initiatives, including how items such as resident priorities could be utilized in other efforts.** AHCA was encouraging CMS to coordinate these efforts with other efforts related to these populations and suggesting that the FASI items be included in other systems. We thanked them for their suggestion and noted that CMS has been coordinating internally across efforts.

The following section provides more detail on each of these comments and responses.

1. Ability may be different from performance.

In designing the FASI set, we recognized that a person's ability may vary depending on different factors, such as illness, preferences, or other factors that may result in differences between one's ability and one's performance at any point in time. The FASI function items are designed to ask about a person's *usual* performance. By relying on a measure of the individual's usual abilities, rather than a single attempt to do an activity, these items should measure a person's actual abilities unless they *choose* not to do an activity. For those cases, where someone is able to perform a task but chooses not to, such as the person who never cooks because their family member typically cooks for them, a response code of "not applicable" is provided. FASI does not make any assumptions about why a person makes such choices but recognizes that the activity was not attempted and should not be coded on the performance scale; instead, the item should be coded as "not applicable." This comment results in no changes to the instrument or burden estimates.

2. Look-back period may not reflect usual performance if acute illness has occurred.

AHCA raises a very important point with which we agree. The guidelines to assessors indicate that the assessment should not occur if the person has experienced illness, has been out of town (e.g. visiting relatives), has been hospitalized, or otherwise does not

reflect their usual living situation. This comment results in no changes to the instrument or burden estimates.

3. Coordination with other initiatives, including how items such as resident priorities could be utilized in other efforts.

As the authors note, several initiatives are underway that may all affect the same individual beneficiaries, including those put forth by the National Quality Forum's HCBS Committee, the Final HCBS Rules, and the rules associated with the Medicaid Managed Care efforts. CMS recognizes these related initiatives and has steps in place, such as internal affinity groups and other cross-unit initiatives, to foster communications and coordination, especially in areas like these where different program policies may inadvertently result in inconsistent requirements. We appreciate your positive feedback on the preference items and your suggestions that they be incorporated in other related program areas. This comment results in no changes to the instrument or burden estimates.