Key Concepts Regarding Liability Notices and Resident Appeal Rights

- The SNF provider may use either the SNFABN (CMS 10555) or one of the Denial Letters (from CMS' website) for Medicare skilled services.

- A SNF does not have to use the SNFABN form (CMS 10055) or Denial Letter printed from the CMS website, but can place all the required information from the CMS 10055 or Denial Letter on the facility's letterhead.

- The SNF provider is not required to issue a SNFABN (CMS 10055) or Denial Letter when SNF services are reduced or terminated in accordance with a physician's order.

- When a beneficiary is receiving more than one skilled service (i.e., PT, OT, SP) and one, but not all the skilled services are being discontinued in accordance with the plan of care/doctor's order, the SNF provider would not be required to issue the SNFABN (CMS 10055) or one of the Denial Letters. If **all** skilled services are ending with benefit days remaining, the SNF provider must issue the Generic notice (CMS 10123).

- The SNF provider is required to notify the beneficiary of the decision to terminate covered services (Generic Notice, CMS 10123) **no later than 2 days** before the proposed end of the services.

- Residents or their legal representative must sign notices to verify receipt; however, if the resident is unable to receive the notice and the resident's legal representative is unavailable, the SNF provider may contact the legal representative and inform him/her by phone. The SNF provider must immediately follow up the phone notification with a written notice. The date of telephone contact is considered to be the date the telephone notice was given as long as it is not disputed by the beneficiary.

- In requesting a list of Medicare beneficiaries discharged from the SNF, "discharge" refers to the termination of all Medicare skilled services. The facility is required to issue the Generic Notice (CMS 100123) prior to the complete cessation of all Medicare skilled services regardless of whether or not the resident is physically leaving the facility (i.e., remaining in the facility as a Medicaid or private pay resident.)

- In the context of surveying for liability notices and resident appeal rights, "non-covered stay" refers to Medicare skilled coverage.

- In the context of surveying for liability notices and resident appeal rights, "closed record" refers to Medicare skilled facility record.

- When all Medicare skilled covered services are ending, the facility must issue the Generic notice (CMS 10123) **at least** two days in advance of the service termination. If the resident requests an expedited review, the facility must issue a Detailed Notice of Provider Noncoverage (CMS Form 10124), which explains why it believes the resident's coverage is ending. If the resident is receiving Medicare skilled care and has Medicare

skilled days remaining and is expected to remain in the facility beyond the date on the Generic notice, s/he must also receive the SNFABN or one of the Denial Letters to notify him/her of potential liability for the noncovered stay. If the resident is expected to leave the facility on or before the date on the Generic notice, the SNFABN or one of the Denial Letters does not have to be issued.