

Medicare/Medicaid: Regulations Proposed To Allow State Funding For Paid Feeding Assistants In Long-Term Care Facilities.

SUMMARY: This proposed rule would provide states the flexibility to allow long term care facilities to use paid feeding assistants to supplement the services of certified nurse aides if their use is consistent with state law.

If facilities choose this option, feeding assistants must complete a specified training program.

This proposed rule would improve the quality of care in long term care facilities by ensuring that residents are assisted with eating and drinking as needed.

PUBLIC COMMENTS: The Centers for Medicare & Medicaid Services will consider written comments from the public if the comments are received at the following address on or before May 28, 2002:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2131-P, PO Box 8017, Baltimore, MD 21244-8017.

Comments cannot be submitted by fax or e mail.

Persons filing public comments are asked to refer to file code CMS-2131-P.

An original and three copies must be submitted if the comments are to receive consideration.

BACKGROUND AND RATIONALE: Currently there is no provision in Federal regulations for the use of single-task workers such as paid feeding assistants in nursing homes.

To insure the safety of nursing facility residents, current regulations require that qualified nursing staff provide assistance with eating and drinking to residents who need assistance or supervision while eating and drinking.

In this context qualified nursing staff include registered nurses, licensed practical nurses and certified nursing assistants who have completed seventy-five hours of training.

The Centers for Medicare & Medicaid Services (CMS) has put a proposal on the table to allow states to fund the use of feeding assistants in long-term care facilities.

Feeding assistants will work with close direct supervision by registered nurses or licensed practical nurses under the proposed new regulations.

At this time this development is only a proposal that has not yet gone into effect.

As a general rule any Federal agency proposing new regulations must first publish the regulations in the Federal Register and accept public comments before making the decision to issue new or amended regulations in final form.

CMS has indicated it may also be necessary on a state-by-state basis for states to amend their laws which define the scope of nursing practice and the duties of non-licensed certified nurses' aides to remove any incompatibility with the requirements and duties of feeding assistants as outlined in the proposed new Federal regulations.

FEDERAL REGISTER, March 29, 2002
Pages 15149-15154.

National CNA Shortage

According to CMS, there is a national CNA shortage, while the nursing-home population is becoming increasingly frail as assisted-living arrangements become popular for elderly persons who do not need assistance with basic ADL's.

Paid feeding assistants will be intended to supplement and work along side rather than replace certified nurse's aides. They will help to feed residents whose nurses have decided need assistance with meals and snacks but do not require a licensed nurse to help them.

Assessment, Supervision To Remain Nursing Responsibilities

Professional nurses will continue to have the responsibility to assess and identify residents who need help with feeding, which often must be done on a day-to-day basis. They will continue to have the responsibility to delegate feeding to a CNA or a feeding assistant, or see that the resident receives assistance from a nurse.

Licensed nurses must always be standing by on the unit to intervene if a certified aide or feeding assistant encounters a problem with feeding and requests help.

CNA or a Feeding Assistant?

CMS anticipates that some residents, for example those with recurrent lung aspiration or difficulty swallowing or who have parenteral, nasogastric or gastrostomal feeding tubes, can be fed by specially trained certified aides who have demonstrated their competence, but will not be candidates for feeding by paid feeding assistants with more minimal training.

Errors and Omissions

Nursing facilities will have the same liability as at present for CNA's for errors and omissions of feeding assistants.

Registry of Abuse, Neglect

Feeding assistants will be subject to the same reporting requirements as licensed nurses and certified nurse's aides for incidents of abuse or neglect of residents.

FEDERAL REGISTER, March 29, 2002
Pages 15149-15154.

Medicare/Medicaid: Regulations Proposed To Allow State Funding For Paid Feeding Assistants In Long-Term Care Facilities.

PROPOSED NEW REGULATIONS: PART 483--REQUIREMENTS FOR STATES AND LONG TERM CARE FA- CILITIES

Subpart B-Requirements for Long Term Care Facilities

Sec. 483.35 Dietary services.

The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

* * * * *

(h) Paid feeding assistants

--(1) General rule. A facility may use a paid feeding assistant, as defined in Sec. 488.301 of this chapter, to feed residents who meet the following conditions:

(i) Need assistance with eating and drinking.

(ii) Based on the comprehensive assessment, do not have a clinical condition that requires the assistance with eating and drinking of a registered nurse, licensed practical nurse, or nurse aide.

(2) Requirements on facilities.

If a facility uses a paid feeding assistant, the facility must ensure that the feeding assistant meets the following requirements:

(i) Training. Completes a State-approved training course that meets the requirements of Sec. 483.160.

(ii) Supervision. Works under the direct supervision of a registered nurse or licensed practical nurse. This means that a nurse is in the unit or on the floor where the feeding assistance is furnished and is immediately available to give help, if necessary.

(i) Sanitary conditions. The facility must--

(1) Procure food from sources approved or considered satisfactory by Federal, State, or local authorities;

(2) Store, prepare, distribute, and serve food under sanitary conditions; and

(3) Dispose of garbage and refuse properly.

CMS anticipates that some paid feeding assistants will be part-time employees such as retirees or homemakers who will work just a few hours each day.

Facilities may also opt to cross-train other personnel as feeding assistants, such as housekeepers and maintenance workers, and may even require clerical and administrative staff to complete the training.

Facilities can continue to draw upon community volunteers to feed residents. Volunteers, including family members, will not be expected to complete the same training that will be required for paid feeding assistants.

The full text of this announcement has been placed on our website at <http://www.nursinglaw.com/67fr15149.pdf>

FEDERAL REGISTER, March 29, 2002

Pages 15149-15154.

* * * * *

Sec. 483.75 [Amended]

3. In Sec. 483.75(e), the definition of "nurse aide" is amended by adding the following sentence to the end of the definition: "Nurse aides do not include those individuals who furnish services to residents only as paid feeding assistants as defined in Sec. 488.301 of this chapter."

Subpart D--Requirements That Must Be Met by States and State Agencies: Nurse

Aide Training and Competency Evaluation; and Paid Feeding Assistants

Sec. 483.160 Requirements for training of paid feeding assistants.

(a) A State-approved training course for paid feeding assistants must include, at a minimum, the following:

(1) Feeding techniques.

(2) Assistance with feeding and hydration.

(3) Communication and interpersonal skills.

(4) Appropriate responses to resident behavior.

(5) Safety and emergency procedures, including the Heimlich maneuver.

(6) Infection control.

(7) Resident rights.

(8) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse.

(b) A facility must maintain a record of all individuals, used by the facility as feeding assistants, who have successfully completed the training course for paid feeding assistants.

(c) A State must require a facility to report to the State all incidents of a paid feeding assistant who has been found to neglect or abuse a resident, or misappropriate a resident's property. The State must maintain a record of all reported incidents.

* * * * *

Sec. 488.301 Definitions.

As used in this subpart -- Paid feeding assistant means an individual who meets the requirements specified in Sec. 483.35(h) (2) of this chapter and who is paid to feed residents by a facility, or who is used under an arrangement with another agency or organization.

FEDERAL REGISTER, March 29, 2002

Pages 15149-15154.