

Nutrition: Facility Did Not Notify Physician, Family Of Change In Condition, Civil Monetary Penalty Upheld.

A resident of a skilled nursing facility, diagnosed with diabetes, dementia and depression, was dependent on others for feeding and even had difficulty swallowing pureed foods and thick liquids.

Recognized to be at risk for malnutrition, his food and fluid intake were to be monitored and recorded daily and he was to be spoon fed his meals and given nutritional supplements.

His weight dropped 18.5 pounds over five weeks. He became unresponsive and was in respiratory distress. He was taken to the hospital, having lost another 6.5 pounds, where he died. Only when he had to be taken to the hospital were the physician and the family finally notified.

Federal regulations require a nursing facility to inform the resident's physician, legal representative and family when there is a significant change in the resident's physical, mental or psychosocial status.

UNITED STATES COURT OF APPEALS
SIXTH CIRCUIT
June 25, 2010

Rapid weight loss in a patient at risk for malnutrition is a significant change in health status which must, by law, be reported to a resident's physician, legal representative and family.

The US Court of Appeals for the Sixth Circuit upheld a civil monetary penalty imposed by state survey inspectors on the facility for non-compliance with Federal standards which posed a risk of immediate jeopardy. Claiborne-Hughes Health v. Sebelius, 609 F. 3d 839 (6th Cir., June 25, 2010).