CENTERS OF MEDICARE AND MEDICAID SERVICES LONG TERM CARE FINAL RULES FOR FOOD AND NUTRITION SERVICES

What's Changed?

excerpts from the CMS Operating Manual
effective November 28, 2016

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Existing Rules are in BLACK (strike-through indicates deletion of previous wording)
Changes/Additions to Rules are in RED

~~483.35~~ 483.60 FOOD AND NUTRITION SERVICES		
~~F360~~ F800	§483.*60* ~~Dietary Services~~ *Food and nutrition services.*	The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets *his or her* daily nutritional and special dietary needs, *taking into consideration the preferences of each resident.*
~~F361~~ F801	§*483.60*(a) Staffing	The facility must employ ~~a qualified dietitian either full time, part-time or on a consultant basis.~~ *Sufficient staff with the appropriate competencies and skills sets to carry out the functions of the food and nutrition service, taking into consideration resident assessments, individual plans of care and the number, acuity and diagnoses of the facility's resident population in accordance with the facility assessment required at §483.70e. [As linked to Facility Assessment, §483.70(e), will be implemented beginning November 28, 2017 (Phase 2)]* (1) This includes: A qualified dietitian or other clinically qualified nutrition professional either full-time, part-time or on a consultant basis. A qualified dietitian *or other clinically qualified nutrition professional* is one who- *(i) Holds a bachelor's or higher degree granted by a regionally accredited college or university in the United States (or an equivalent foreign degree) with completion of the academic requirements of a program in nutrition or dietetics accredited by an appropriate national accreditation organization recognized for this purpose.* *(ii) Has completed at least 900 hours of supervised dietetics practice under the supervision of a registered dietitian or nutrition professional.* *(iii) Is licensed or certified as a dietitian or nutrition professional by the State in which the services are performed. In a State that does not provide for licen sure or certification, the individual will be deemed to have met this requirement if he or she is recognized as a "registered dietitian" by the Commission on Dietetic Registration or its successor organization, or meets the requirements of paragraphs (a)(1)(i) and (ii) of this section.* *(iv) For dietitians hired or contracted with prior to November 28, 2016, meets these requirements no later than 5 years after November 28, 2016 or as required by state law:* *(i) For designations prior to November 28, 2016, meets the following requirements no later than 5 years after November 28, 2016, or no later than 1 year after November 28, 2016 for designations after November 28, 2016, is:* *(A) A certified dietary manager; or* *(B) A certified food service manager; or* *(C) Has similar national certification for food service management and safety from a* national certifying body; or *(i) For designations prior to November 28, 2016, meets the following requirements no later than 5 years after November 28, 2016, or no later than 1 year after November 28, 2016 for designations after November 28, 2016, is:* *(D) Has an associate's or higher degree in food service management or in hospitality, if the course study includes food service or restaurant management from an accredited institution of higher learning; and*

		(ii) In States that have established standards for food service managers or dietary managers, meets State requirements for food service managers or dietary managers, and *(iii)* Receives frequently scheduled consultations from a qualified dietitian *or other clinically qualified nutrition professional.*
~~F362~~ **F802**	§*483.60 (a)(3)* ~~**Standard**~~ ~~**Sufficient Staff**~~ ***Support Staff*** §*483.21(b)*	The facility must provide sufficient support personnel *to safely and effectively* carry out the functions of the *food and nutrition service.* *A member of the Food and Nutrition Services staff must participate on the interdisciplinary team as required in §483.21(b)(2)(ii).*
~~F363~~ **F803**	§*483.60(c)* **Menus and nutritional adequacy**	Menus must *(1)* Meet the nutritional needs of residents in accordance ~~recommended dietary allowances of the Food & Nutrition Board of the National Research Council and National Academy of Sciences~~ *with established national guidelines.* *(2)* Be prepared in advance *(3)* Be followed; *(4) Reflect, based on a facility's reasonable efforts, the religious, cultural and ethnic needs of the resident population, as well as input received from residents and resident groups;* *(5) Be updated periodically.* *(6) Be reviewed by the facility's dietitian or other clinically qualified nutrition professional for nutritional adequacy.* *(7) Nothing in this paragraph should be construed to limit the resident's right to make personal dietary choices.*
~~F364~~ **F804**	**§483.60 Food** ***and drink***	Each resident receives and the facility provides (1) Food prepared by methods that conserve nutritive value, flavor, and appearance (2) Food *and drink* that is palatable, attractive, and at *a safe and appetizing* temperature.
~~F365~~ **F805**	**§483.*60* (d)(3)**	Food prepared in a form designed to meet individual needs.
~~F366~~ **F806** **F807**	*§483.60(d)*	*(4)* ~~Substitutes offered of similar nutritive value to residents who refuse food served~~ *Food that accommodates resident allergies, intolerances, and preferences.* *(5) Appealing options* of similar nutritive value to residents *who choose not to eat* food *that is initially* served or *who request a different meal choice*; and *(6) Drinks, including water and other liquids consistent with resident needs and preferences and sufficient to maintain resident hydration.*

~~F367~~ F808	§483.*60*(e) Therapeutic Diets	*(1)* Therapeutic diets must be prescribed by the attending physician. *(2) The attending physician may delegate to a registered or licensed dietitian the task of prescribing a resident's diet, including a therapeutic diet, to the extent allowed by State law.*
~~F368~~ F809	§483.*60*(f) Frequency of Meals	(1) Each resident must receive and the facility must provide at least three meals daily, at regular times comparable to normal mealtimes in the community *or in accordance with resident needs, preferences, requests, and plan of care.* (2) There must be no more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in below except when a nourishing snack is ~~offered~~ served at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span. *(3) Suitable, nourishing alternative meals and snacks must be provided to residents who want to eat at non-traditional times or outside of scheduled meal service times, consistent with the resident plan of care.*~~The facility must offer snacks at bedtime daily.~~
~~F369~~ F810	§483.*60*(g) Assistive devices	The facility must provide special eating equipment and utensils for residents who need them *and appropriate assistance to ensure that the resident can use the assistive devices when consuming meals and snacks.*
~~F371~~ F812 F813	§483.*60(*i) ~~Sanitary Conditions~~ *Food safety requirements*	The facility must – §483.*60*(i)(1) - Procure food from sources approved or considered satisfactory by federal, state or local authorities. *(i) This may include food items obtained directly from local producers, subject to applicable State and local laws or regulations.* *(ii) This provision does not prohibit or prevent facilities from using produce grown in facility gardens, subject to compliance with applicable safe growing and food handling practices.* *(iii) This provision does not preclude residents from consuming foods not procured by the facility.* *(2)* Store, prepare, distribute and serve food ~~under sanitary conditions~~ *in accordance with professional standards for food service safety.* *(3) Have a policy regarding use and storage of foods brought to residents by family and other visitors to ensure safe and sanitary storage, handling, and consumption.*
~~F372~~ F814	§483.*60*(i)(4)	Dispose of garbage and refuse properly.

483.25 TUBE FEEDING		
~~F322~~ F693	*F§483.25(g)(4)(5)* ~~Nutrition.~~ *Assisted nutrition and hydration.*	*(Includes naso-gastric and gastrostomy tubes, both percutaneous endoscopic gastrostomy and percutaneous endoscopic jejunostomy, and enteral fluids).* Based on a resident's comprehensive assessment, the facility must ensure that a resident – (i) Maintains acceptable parameters of nutritional status, such *as usual* body weight or *desirable body weight range* and *electrolyte balance,* unless the resident's clinical condition demonstrates that this is not possible *or resident preferences indicate otherwise;* (ii) Is offered sufficient fluid intake to maintain proper hydration and health; and 42 C.F.R. § 483.25 – 72 *(iii) Is offered* a therapeutic diet when there is a nutritional problem *and the health care provider orders a therapeutic diet. {(iv) and (v) are F693.}* *(iv)* A resident who has been able to eat enough alone or with assistance is not fed by ~~naso-gastric tube~~ *enteral methods* unless the resident's clinical condition demonstrates ~~that use of a naso-gastric tube was unavoidable~~; *enteral feeding was clinically indicated and consented to by the resident; and* (v) A resident who is fed by *enteral means* receives the appropriate treatment and services to *restore, if possible, oral eating skills and* to prevent *complications of enteral feeding including but not limited to* aspiration pneumonia, diarrhea, vomiting, dehydration, metabolic abnormalities, and nasal-pharyngeal ulcers ~~and to restore, if possible, normal eating skills.~~
~~F325~~ F692	*§ 483.25(g)(1)(3)* ~~Nutrition~~ *Assisted nutrition and hydration.*	*(Includes naso-gastric and gastrostomy tubes, both percutaneous endoscopic gastrostomy and percutaneous endoscopic jejunostomy, and enteral fluids).* Based on a resident's comprehensive assessment, the facility must ensure that a resident *(1) Maintains* ~~acceptable parameters of~~ *nutritional status, such as usual body weight* and ~~protein levels~~ *or desirable body weight range* and *electrolyte balance,* unless the resident's clinical condition demonstrates that this is not possible *or resident preferences indicate otherwise.* *(3)* ~~Receives~~ *Is offered a therapeutic diet when there is a nutritional problem and the health care provider orders a therapeutic diet.*
~~F327~~ F692	*§ 483.25(g)(2)* ~~Hydration~~ *Assisted nutrition and hydration.*	*(Includes naso-gastric and gastrostomy tubes, both percutaneous endoscopic gastrostomy and percutaneous endoscopic jejunostomy, and enteral fluids). Based on a resident's comprehensive assessment, the facility must ensure that a resident—* (2) ~~Must provide~~ *Is offered sufficient fluid intake to maintain proper hydration and health.*
483.10 RESIDENT RIGHTS		
~~F151~~ F550	§483.10*(b)* Exercise of Rights	The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States. *(1) The facility must ensure that the resident can exercise his or her rights without interference, coercion, discrimination, or reprisal from the facility.* (2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights *and to be supported by the facility in the exercise of his or her rights as required under this subpart.*

~~F154~~ F552	§483.10*(c)* **Planning and Implementing Care**	The resident has the right to be informed of, *and participate in, his or her treatment, including:* *(1)* The right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition. *(2)(iii)* The right to be informed, in advance, of changes *to the plan of care.* *(4)* The right to be informed, in advance, *of the* care *to be furnished and the type of care giver or professional that will furnish care.* *(5) The right to be informed in advance, by the physician or other practitioner or professional, of the risks and benefits of proposed care, of treatment and treatment alternatives or treatment options and to choose the alternative or option he or she prefers.*
~~F155~~ F578	**Right to Refuse Treatment**	The right to *request*, refuse, *and/or discontinue* treatment, *to participate in or* refuse to participate in experimental research, and to formulate an advance directive.
483.20 USE		
~~F279~~ ~~F286~~ F639	§483.20(d) **Use**	A facility must maintain all resident assessments completed within the previous 15 months in the resident's active record *and use the results of the assessments to develop, review and revise the resident's comprehensive care plan.*
483.21 CARE PLANS		
~~F279~~ ~~F280~~ F655 F656 F657	***§483.21(a) Baseline Care Plans***	*[§483.21(a) will be implemented beginning November 28, 2017 (Phase 2)]* *(1) The facility must develop and implement a baseline care plan for each resident that includes the instructions needed to provide effective and person-centered care of the resident that meet professional standards of quality care. The baseline care plan must--* *(i) Be developed within 48 hours of a resident's admission. (ii) Include the minimum healthcare information necessary to properly care for a resident including, but not limited to—* *(A) Initial goals based on admission orders.* *(B) Physician orders.* *(C) Dietary orders.* *(D) Therapy services.* *(E) Social services.* *(F) PASARR recommendation, if applicable.* *(2) The facility may develop a comprehensive care plan in place of the baseline care plan.* *If the comprehensive care plan—* *(i) Is developed within 48 hours of the resident's admission.* *(ii) Meets the requirements set forth in paragraph (b) of this section (excepting paragraph (b)(2)(i) of this section).* *(3) The facility must provide the resident and their representative with a summary of the baseline care plan that includes but is not limited to:* *(i) The initial goals of the resident.* *(ii) A summary of the resident's medications and dietary instructions.* *(iii) Any services and treatments to be administered by the facility and personnel acting on behalf of the facility. (iv) Any updated information based on the details of the comprehensive care plan, as necessary.*

	§483.21(a) Baseline Care Plans	(1) The facility must develop *and implement* a comprehensive *person-centered* care plan for each resident, *consistent with the resident rights set forth at §483.10(c)(2) and §483.10(c)(3),* that includes measurable objectives and time*frames* to meet a resident's medical, nursing, and mental and psychosocial needs that are identified in the comprehensive assessment. The comprehensive care plan must describe the following — (i) The services that are to be furnished to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being as required under *§483.24,* §483.25 *or §483.40*; and (ii) Any services that would otherwise be required under *§483.24,* §483.25 *or §483.40* but are not provided due to the resident's exercise of rights under §483.10, including the right to refuse treatment under §483.10(c)(6). *(iii) Any specialized services or specialized rehabilitative services the nursing facility will provide as a result of PASARR recommendations. If a facility disagrees with the findings of the PASARR, it must indicate its rationale in the resident's medical record.* *(iv)In consultation with the resident and the resident's representative (s)—* *(A) The resident's goals for admission and desired outcomes.* *(B) The resident's preference and potential for future discharge. Facilities must document whether the resident's desire to return to the community was assessed and any referrals to local contact agencies and/or other appropriate entities, for this purpose.* *(C) Discharge plans in the comprehensive care plan, as appropriate, in accordance with the requirements set forth in paragraph (c) of this section.* (2) A comprehensive care plan must be— (i) Developed within 7 days after completion of the comprehensive assessment. (ii) Prepared by an interdisciplinary team, that includes but is not limited to- (A) The attending physician. (B) A registered nurse with responsibility for the resident. *(C) A nurse aide with responsibility for the resident.* *(D) A member of food and nutrition services staff.* (E) To the extent practicable, the participation of the resident *and the resident's representative(s). An explanation must be included in a resident's medical record if the participation of the resident and their resident representative is determined not practicable for the development of the resident's care plan.* (F) Other appropriate staff *or professionals* in disciplines as determined by the resident's needs *or as requested by the resident.* *(iii)* Reviewed and revised by *the interdisciplinary team* after each assessment, *including both the comprehensive and quarterly review assessments.*

~~F280~~ F553	**Right to Participate in Planning Care** **§483.10(c)**	(2) The right to participate in *the development and implementation of his or her person-centered plan of* care, *including but not limited to:* *(i) The right to participate in the planning process, including the right to identify individuals or roles to be included in the planning process, the right to request meetings and the right to request revisions to the person-centered plan of care.* *(ii) The right to participate in establishing the expected goals and outcomes of care, the type, amount, frequency, and duration of care, and any other factors related to the effectiveness of the plan of care.* *(iv) The right to receive the services and/or items included in the plan of care.* *(v) The right to see the care plan, including the right to sign after significant changes to the plan of care.* *(3) The facility shall inform the resident of the right to participate in his or her treatment and shall support the resident in this right. The planning process must-* *(i) Facilitate the inclusion of the resident and/or resident representative.* *(ii) Include an assessment of the resident's strengths and needs.* *(iii) Incorporate the resident's personal and cultural preferences in developing goals of care.*
~~F281~~ F658	***§483.21(b)(3) Comprehensive Care Plans***	The services provided or arranged by the facility, *as outlined by the comprehensive care plan,* must— (i) Meet professional standards of quality.
~~F282~~ F659	***§483.21(b)(3) Comprehensive Care Plans***	The services provided or arranged by the facility, *as outlined by the comprehensive care plan, must—* (ii) Be provided by qualified persons in accordance with each resident's written plan of care. *(iii) Be culturally-competent and trauma–informed. [§483.21(b)(iii) will be implemented beginning November 28, 2019 (Phase 3)]*
483. 75 QUALITY ASSESSMENT PERFORMANCE IMPROVEMENT		
~~F520~~ F865	**§483.75 Quality assurance and performance improvement.** **§483.73(a)(1)** **§483.75(a)(2)**	*[§483.75 and all subparts will be implemented beginning November 28, 2019 (Phase 3), unless otherwise specified]* *Each LTC facility, must develop, implement and maintain an effective, comprehensive, data-driven QAPI program that focuses on indicators of the outcomes of care and quality of life. The facility must:* *Maintain documentation and demonstrate evidence of its ongoing QAPI program that meets the requirements of this section. This may include but is not limited to systems and reports demonstrating systematic identification, reporting, investigation, analysis, and prevention of adverse events; and documentation demonstrating the development, implementation, and evaluation of corrective actions or performance improvement activities;* *Present its QAPI plan to the State Survey Agency no later than 1 year after the promulgation of this regulation; [§483.75(a)(2) implemented November 28, 2017 (Phase 2)]*

483. 75 QUALITY ASSESSMENT PERFORMANCE IMPROVEMENT

~~F520~~ F865	Ä483.75 (a)(3)	*(Present its QAPI plan to a State Survey Agency or Federal surveyor at each annual recertification survey and upon request during any other survey and to CMS upon request; and*
	Ä483.75 (a)(4)	*Present documentation and evidence of its on ongoing QAPI program's implementation and the facility's compliance with requirements to a State Survey Agency, Federal surveyor or CMS upon request.*
	Ä483.75 (b)	*Program design and scope. A facility must design its QAPI program to be ongoing, comprehensive, and to address the full range of care and services provided by the facility. It must:*
	Ä483.75 (b)(1)	*Address all systems of care and management practices;*
	Ä483.75 (b)(2)	*Include clinical care, quality of life, and resident choice;*
	Ä483.75 (b)(3)	*Utilize the best available evidence to define and measure indicators of quality and facility goals that reflect processes of care and facility operations that have been shown to be predictive of desired outcomes for residents of a SNF or NF.*
	Ä483.75 (b)(4)	*Reflect the complexities, unique care, and services that the facility provides.*
	Ä483.75 (f)	*Governance and leadership.* *The governing body and/or executive leadership (or organized group or individual who assumes full legal authority and responsibility for operation of the facility) is responsible and accountable for ensuring that:*
	Ä483.75 (f)(1)	*An ongoing QAPI program is defined, implemented, and maintained and addresses identified priorities.*
	Ä483.75 (f)(2)	*The QAPI program is sustained during transitions in leadership and staffing;*
	Ä483.75 (f)(3)	*The QAPI program is adequately resourced, including ensuring staff time, equipment, and technical training as needed;*
	Ä483.75 (f)(4)	*The QAPI program identifies and prioritizes problems and opportunities that reflect organizational process, functions, and services provided to residents based on performance indicator data, and resident and staff input, and other information.*
	Ä483.75 (f)(5)	*Corrective actions address gaps in systems, and are evaluated for effectiveness; and*
	Ä483.75 (f)(6)	*Clear expectations are set around safety, quality, rights, choice, and respect.*
	Ä483.75 (h)	*Disclosure of information.*