CMS Manual System

Pub. 100-07 State Operations Provider Certification

Department of Health & Human Services (DHHS)
Centers for Medicare & Medicaid Services (CMS)

Transmittal 26 **Date: AUGUST 17, 2007**

SUBJECT: Revised Appendix P and Appendix PP – New Tag F373

I. SUMMARY OF CHANGES: Revised Appendix P, Task 2 Entrance Conference, and Task 5C Resident Review. New regulatory Tag F373 Paid Feeding Assistants is added to Appendix PP.

NEW/REVISED MATERIAL - EFFECTIVE DATE*: August 17, 2007
IMPLEMENTATION DATE: August 17, 2007

Disclaimer for manual changes only: The revision date and transmittal number apply to the red italicized material only. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (*N/A if manual not updated.*)
(R = REVISED, N = NEW, D = DELETED) – (*Only One Per Row.*)

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	Appendix P/II – The Survey Process/IIB-The Traditional Survey/Task 2 – Entrance Conference/Onsite Preparatory Activities
R	Appendix P/II – The Survey Process/IIB – The Traditional Survey/Task 5/Subtask 5C – Resident Review
N	Appendix PP/Tag F373/Paid Feeding Assistants
N	Appendix PP/§483.75(e)/Required Training of Nurse Aides
N	Appendix PP/§483.75(q)/Required Training of Feeding Assistants

III. FUNDING: Medicare contractors shall implement these instructions within their current operating budgets.

IV. ATTACHMENTS:

	Business Requirements
x	**Manual Instruction**
	Confidential Requirements
	One-Time Notification
	Recurring Update Notification

***Unless otherwise specified, the effective date is the date of service.**

Procedures:

1. During the meal service, observe the dining room and/or resident's room for the following:

    - Comfortable sound levels;
    - Adequate illumination, furnishings, ventilation; absence of odors; and sufficient space;
    - Tables adjusted to accommodate wheelchairs, etc.; and
    - Appropriate hygiene provided prior to meals.

2. Observe whether each resident is properly prepared for meals. For example:

    - Resident's eyeglasses, dentures, and/or hearing aids are in place;
    - Proper positioning in chair, wheelchair, gerichair, etc., at an appropriate distance from the table (tray table and bed at appropriate height and position); and
    - Assistive devices/utensils identified in care plans provided and used as planned.

3. Observe the food service for:

    - Appropriateness of dishes and flatware for each resident. Single use disposable dining ware is not used except in an emergency and, other appropriate dining activities. Except those with fluid restriction, each resident has an appropriate place setting with water and napkin;
    - Whether meals are attractive, palatable, served at appropriate temperatures and are delivered to residents in a timely fashion.
        - Did the meals arrive 30 minutes or more past the scheduled mealtime?
        - If a substitute was needed, did it arrive more than 15 minutes after the request for a substitute?
    - Are diet cards, portion sizes, preferences, and condiment requests being honored?

4. Determine whether residents are being promptly assisted to eat or provided necessary assistance/cueing in a timely manner after their meal is served.

- Note whether residents at the same table or in resident rooms, are being served and assisted concurrently.

- *If you observe a resident who is being assisted by a staff member to eat or drink, and the resident is having problems with eating or drinking, inquire if the staff member who is assisting them is a paid feeding assistant. If so, follow the procedures at tag F373.*

5. Determine if the meals served were palatable, attractive, nutritious and met the needs of the resident. Note the following:

    - Whether the resident voiced concerns regarding the taste, temperature, quality, quantity and appearance of the meal served;

    - Whether mechanically altered diets, such as pureed, were prepared and served as separate entree items (except when combined food, e.g., stews, casseroles, etc.);

    - Whether attempts to determine the reason(s) for the refusal and a substitute of equal nutritive value was provided, if the resident refused/rejected food served; and

    - Whether food placement, colors, and textures were in keeping with the resident's needs or deficits, e.g., residents with vision or swallowing deficits.

    Sample Tray Procedure

    If residents complain about the palatability/temperature of food served, the survey team coordinator may request a test meal to obtain quantitative data to assess the complaints. Send the meal to the unit that is the greatest distance from the kitchen or to the affected unit or dining room. Check food temperature and palatability of the test meal at about the time the last resident on the unit is served and begins eating.

6. Observe for institutional medication pass practices that interfere with the quality of the residents' dining experience. This does not prohibit the administration of medications during meal service for medications that are necessary to be given at a meal, nor does this prohibit a medication to be given during a meal upon request of a resident who is accustomed to taking the medication with the meal, as long as it has been determined that this practice does not interfere with the effectiveness of the medication.

    - Has the facility attempted to provide medications at times and in a manner to support the dining experience of the resident, such as:

- Pain medications being given prior to meals so that meals could be eaten in comfort;

- Foods served are not routinely or unnecessarily used as a vehicle to administer medications (mixing the medications with potatoes or other entrees).

7. Determine if the sampled resident consumed adequate amounts of food as planned.

   - Determine if the facility is monitoring the foods/fluids consumed. Procedures used by the facility may be used to determine percentage of food consumed, if available; otherwise, determine the percentage of food consumed using the following point system:

     - Each food item served except for water, coffee, tea, or condiments equals one point. Example: Breakfast: juice, cereal, milk, bread and butter, coffee (no points) equals four points. If the resident consumes all four items in the amount served, the resident consumes 100% of breakfast. If the resident consumes two of the four food items served, then 50% of the breakfast would have been consumed. If three-quarters of a food item is consumed, give one point; for one-half consumed, give .5 points; for one- fourth or less, give no points. Total the points consumed x 100 and divide by the number of points given for that meal to give the percentage of meal consumed. Use these measurements when determining the amount of liquids consumed: Liquid measurements: 8 oz. cup = 240 cc, 6 oz. cup = 180 cc, 4 oz. cup = 120 cc, 1 oz. cup = 30 cc.

     - Compare these findings with the facility's documentation to determine if the facility has accurately recorded the intake. Ask the staff if these findings are consistent with the resident's usual intake; and

     - Note whether plates are being returned to the kitchen with 75% or more of food not eaten.

8. If concerns are noted with meal service, preparation, quality of meals, etc., interview the person(s) responsible for dietary services to determine how the staff are assigned and monitored to assure meals are prepared according to the menu, that the meals are delivered to residents in a timely fashion, and at proper temperature, both in the dining rooms/areas and in resident rooms.

   NOTE: If concerns are identified in providing monitoring by supervisory staff during dining or concerns with assistance for residents to eat, evaluate nursing staffing in accord with 42 CFR 483.30(a), F353, and quality of care at 42 CFR 483.25(a)(2) and (3).

Task 6: Determination of Compliance:

- Compliance with 42 CFR 483.35(d)(1)(2), F364, Food
    - The facility is compliant with this requirement when each resident receives food prepared by methods that conserve nutritive value, palatable, attractive and at the proper temperatures. If not, cite F364.
- Compliance with 42 CFR 483.35(b), F362, Dietary services, sufficient staff
    - The facility is compliant with this requirement if they have sufficient staff to prepare and serve palatable and attractive, nutritionally adequate meals at proper temperatures. If not, cite F362.

NOTE: If serving food is a function of the nursing service rather than dietary, refer to 42 CFR 483.30(a), F353.

- Compliance with 42 CFR 483.15(h)(1), F252, Environment
    - The facility is compliant with this requirement if they provide a homelike environment during the dining services that enhances the resident's quality of life. If not, cite F252.
- Compliance with 42 CFR 483.70(g)(1)(2)(3)(4), F464, Dining and Resident Activities
    - The facility is compliant with this requirement if they provide adequate lighting, ventilation, furnishings and space during the dining services. If not, cite F464.

Investigative Protocol

Nursing Services, Sufficient Staffing

Objectives:

- To determine if the facility has sufficient nursing staff available to meet the residents' needs.
- To determine if the facility has licensed registered nurses and licensed nursing staff available to provide and monitor the delivery of resident care.

Task 5C: Use:

NOTE: This protocol is not required during the standard survey, unless it is triggered in the event of care concerns/problems which may be associated with sufficiency of nursing staff. It is required to be completed for an extended survey.

This protocol is to be used when:

- Quality of care problems have been identified, e.g., residents not receiving the care and services to prevent pressure sore/ulcer(s), unintended weight loss and dehydration, and to prevent declines in their condition as described in their comprehensive plans of care, such as bathing, dressing, grooming, transferring, ambulation, toileting, and eating; and

- Complaints have been received from residents, families or other resident representatives concerning services, e.g., care not being provided, call lights not being answered in a timely fashion, and residents not being assisted to eat.

Procedures:

- Determine if the registered/licensed nursing staff are available to:

    - Supervise and monitor the delivery of care by nursing assistants according to residents' care plans;

    - Assess resident condition changes;

    - Monitor dining activities to identify concerns or changes in residents' needs;

    - Respond to nursing assistants' requests for assistance;

    - Correct inappropriate or unsafe nursing assistants techniques; and

    - Identify training needs for the nursing assistants.

- If problems were identified with care plans/services not provided as needed by the resident, focus the discussion with supervisory staff on the situations which led to using the protocol: how do they assure that there are adequate staff to meet the needs of the residents; how do they assure that staff are knowledgeable about the needs of the residents and are capable of delivering the care as planned; how do they assure that staff are appropriately deployed to meet the needs of the residents; how do they provide orientation for new or temporary staff regarding the resident needs and the interventions to meet those needs; and how do they assure that staff are advised of changes in the care plan?

- Determine if nursing assistants and other nursing staff are knowledgeable regarding the residents' care needs, e.g., the provision of fluids and foods for

residents who are unable to provide these services for themselves; the provision of turning, positioning and skin care for those residents identified at risk for pressure sore/ulcers; and the provision of incontinence care as needed;

- If necessary, review nursing assistant assignments in relation to the care and or services the resident requires to meet his/her needs;

- In interviews with residents, families and/or other resident representatives, inquire about the staff's response to requests for assistance, and the timeliness of call lights being answered; and

- Determine if the problems are facility-wide, cover all shifts or if they are limited to certain units or shifts, or days of the week. This can be based on information already gathered by the team with additional interviews of residents, families, and staff, as necessary.

Task 6: Determination of Compliance:

NOTE: Meeting the State-mandated staffing ratio, if any, does not preclude a deficiency of insufficient staff if the facility is not providing needed care and services to residents.

- Compliance with 42 CFR 483.30(a), F353, Sufficient Staff:

    - The facility is compliant with this requirement if the facility has provided a sufficient number of licensed nurses and other nursing personnel to meet the needs of the residents on a 24-hour basis. If not, cite F353.

J. Closed Record Reviews

Closed records are included in the total resident sample. If possible, select closed records of residents who have been identified through the use of offsite information concerning a particular care issue. If there is a care area that is an identified concern, try to obtain the closed records of residents who had the same care needs before death, discharge, or transfer. Document information on the Form CMS-805, Sections C and D, as appropriate.

Look for information to determine compliance with quality of care and other requirements such as:

- Assessment and care of infections;

- Pressure sores;

- Significant weight loss;

- Restraints;
- Multiple falls or injuries;
- Discharge planning; and
- Transfer and discharge requirements.

Unless there is a reason to review the entire record, focus the review on the appropriateness of care and treatment surrounding the resident's discharge or transfer, and the events leading up to that discharge or transfer. For example, if the survey team has identified a concern with inadequate identification and care of residents with infections, and several residents have recently been hospitalized with serious infections, the review would be a focused review on the care and assessment these residents received before they were hospitalized. In addition:

- Look for documentation related to transfer, discharge, and bed-hold, including facility's discharge planning, notices, and reasons for facility-initiated moves, e.g., proper planning and transferring subsequent to a change in payor or care needs; and
- Determine if within 30 days of the death of a resident, the facility conveyed the deceased resident's personal funds and a final accounting to the individual or probate jurisdiction administering the individual's estate as provided by State law (see 42 CFR 483.10(c)(6), F160).

K. Review of a Resident Receiving Hospice Care

When a facility resident has also elected the Medicare hospice benefit, the hospice and the nursing home must communicate, establish, and agree upon a coordinated plan of care for both providers which reflects the hospice philosophy, and is based on an assessment of the individual's needs and unique living situation in the facility. The plan of care must include directives for managing pain and other uncomfortable symptoms and be revised and updated as necessary to reflect the individual's current status.

The hospice must designate a registered nurse from the hospice to coordinate the implementation of the plan of care.

This coordinated plan of care must identify the care and services which the SNF/NF and hospice will provide in order to be responsive to the unique needs of the patient/resident and his/her expressed desire for hospice care.

The SNF/NF and the hospice are responsible for performing each of their respective functions that have been agreed upon and included in the plan of care. The hospice retains overall professional management responsibility for directing the implementation of the plan of care related to the terminal illness.

For residents receiving Hospice benefit care, evaluate if:

- The plan of care reflects the participation of the hospice, the facility, and the patient to the extent possible;
- The plan of care includes directives for managing pain and other uncomfortable symptoms and is revised and updated as necessary to reflect the individual's current status;
- Drugs and medical supplies are provided as needed for the palliation and management of the terminal illness and related conditions;
- The hospice and the facility communicate with each other when any changes are indicated to the plan of care;
- The hospice and the facility are aware of the other's responsibilities in implementing the plan of care;
- The facility's services are consistent with the plan of care developed in coordination with the hospice, (the hospice patient residing in a SNF/NF should not experience any lack of SNF/NF services or personal care because of his/her status as a hospice patient); and
- The SNF/NF offers the same services to its residents who have elected the hospice benefit as it furnishes to its residents who have not elected the hospice benefit. The patient/resident has the right to refuse any services.

NOTE: If there are concerns about the resident in relation to care provided by the hospice agency, refer the issue to the State Agency responsible for surveying hospices.

L. Review of a Resident Receiving Dialysis Services

When dialysis is provided in the facility by an outside entity, or the resident leaves the facility to obtain dialysis, the nursing home must have an agreement or arrangement with the entity in accordance with 42 CFR 483.75 (h). This agreement/arrangement should include all aspects of how the resident's care is to be managed, including:

- Medical and non-medical emergencies;
- Development and implementation of the resident's care plan;
- Interchange of information useful/necessary for the care of the resident; and
- Responsibility for waste handling, sterilization, and disinfection of equipment.

If there is a sampled resident who is receiving dialysis care, evaluate the following, in addition to the standard Resident Review protocol:

- Whether medication is given at times for maximum effect;

- Whether staff know how to manage emergencies and complications, including equipment failure and alarm systems (if any), bleeding/hemorrhaging, and infection/bacteremia/septic shock;

- Whether facility staff are aware of the care of shunts/fistulas, infection control, waste handling, nature and management of end stage renal disease (including nutritional needs, emotional and social well-being, and aspects to monitor); and

- Whether the treatment for this (these) resident(s), affects the quality of life, rights or quality of care for other residents, e.g., restricting access to their own space, risk of infections.

M. Review of Influenza and Pneumococcal Immunizations

Use the Investigative Protocol contained at Tag F334 to complete a review of the implementation of the facility's immunization policies and procedures

Appendix PP

F373

(Rev. 26; Issued: 08-17-07; Effective/Implementation Dates: 08-17-07)

§483.35(h) - Paid Feeding Assistants

(1) State-approved training course. A facility may use a paid feeding assistant, as defined in §488.301 of this chapter, if—

(i) The feeding assistant has successfully completed a State-approved training course that meets the requirements of §483.160 before feeding residents; and

(ii) The use of feeding assistants is consistent with State law.

(2) Supervision.

(i) A feeding assistant must work under the supervision of a registered nurse (RN) or licensed practical nurse (LPN).

(ii) In an emergency, a feeding assistant must call a supervisory nurse for help on the resident call system.

(3) Resident selection criteria.

(i) A facility must ensure that a feeding assistant feeds only residents who have no complicated feeding problems.

(ii) Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral/IV feedings.

(iii) The facility must base resident selection on the charge nurse's assessment and the resident's latest assessment and plan of care.

NOTE: *One of the specific features of the regulatory requirement for this tag is that paid feeding assistants must complete a training program with the following minimum content as specified at §483.160:*

a. Minimum training course contents. A State-approved training course for paid feeding assistants must include, at a minimum, 8 hours of training in 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; and

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

b. Maintenance of records. 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.

Intent: §483.35(h)

The intent of this regulation is to ensure that employees who are used as paid feeding assistants are:

- *Properly trained (in accordance with the requirements at §483.160, including maintenance of records);*
- *Adequately supervised;*
- *Assisting only those residents without complicated feeding problems and who have been selected as eligible to receive these services from a paid feeding assistant; and*
- *Providing assistance in accordance with the resident's needs, based on individualized assessment and care planning.*

Definitions

"Paid feeding assistant" is defined in the regulation at 42 CFR 488.301 as "an individual who meets the requirements specified at 42 CFR 483.35(h)(1)(i) 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."

NOTE: *The regulation uses the term, "paid feeding assistant." While we are not using any other term, facilities and States may use whatever term they*

prefer, such as dining assistant, meal assistant, resident assistant, nutritional aide, etc. in order to convey more respect for the resident. Facilities may identify this position with other titles; however, the facility must be able to identify those employees who meet the requirements under the paid feeding assistant regulation. These requirements do not apply to family and/or volunteers who may be providing the resident with assistance.

"Resident call system," for the purposes of this requirement includes not only the standard hard-wired call system, but other means in an emergency situation by which a paid feeding assistant can achieve timely notification of a supervisory nurse (when not present in the room).

OVERVIEW

The intent behind the use of paid feeding assistants by nursing homes is to provide nutrition and hydration support to residents who may be at risk for unplanned weight loss and dehydration. These are residents with no complicated problems associated with eating or drinking, who cannot or do not eat independently due to physical or cognitive disabilities, or those who simply need cueing or encouragement to eat. The use of paid feeding assistants is intended to supplement certified nurse aides, not substitute for nurse aides or licensed nursing staff. Use of paid feeding assistants is an option for nursing homes if their state approves the use of paid feeding assistants and establishes a mechanism to approve training programs for paid feeding assistants.

Interpretive Guidelines §483.35(h)

NOTE: *The regulation at §483.30(a)(2) requires that "Except when waived under paragraph (c) of this section, the facility must designate a licensed nurse to service as a charge nurse on each tour of duty." In the paid feeding assistant regulation, the term charge nurse is used to identify who is responsible for assessing the eligibility of a resident to be assisted by a paid feeding assistant. The regulation also states that a paid feeding assistant must work under the supervision of an RN or LPN, and they must call the supervisory nurse in case of an emergency. Therefore, a facility that has received a waiver and does not have either an RN or LPN available in the building cannot use paid feeding assistants during those times.*

Charge Nurse Assessment of Resident Eligibility for Feeding Assistance

The facility must base resident selection on the charge nurse's (RN, or LPN if allowed by State law) current assessment of the resident's condition and the resident's latest comprehensive assessment and plan of care. Charge nurses may wish to consult with interdisciplinary team members, such as speech-language pathologists or other professionals, when making their decisions.

Paid feeding assistants are permitted to assist only those residents who have no complicated eating or drinking problems. This includes residents who are dependent in eating and/or those who have some degree of dependence, such as needing cueing or partial assistance, as long as they do not have complicated eating or drinking problems.

Paid feeding assistants are not permitted to assist residents who have complicated eating problems, such as (but not limited to) difficulty swallowing, recurrent lung aspirations, or who receive nutrition through parenteral or enteral means. Nurses or nurse aides must continue to assist residents to eat or drink who require the assistance of staff with more specialized training.

Facilities may use paid feeding assistants to assist eligible residents to eat and drink at meal times, snack times, or during activities or social events as needed, whenever the facility can provide the necessary supervision.

Supervision (by RN/LPN) of Paid Feeding Assistants

A paid feeding assistant must work under the supervision of an RN or LPN. While we are not prescribing the exact means by which facility RNs and LPNs assert their supervisory responsibilities, we expect that facilities will do so in a way that avoids negative outcomes for their residents. If a facility chooses to use paid feeding assistants, it is the facility's responsibility to ensure that adequate supervisory nursing staff are available to supervise these assistants.

The supervisory nurse should monitor the provision of the assistance provided by paid feeding assistants to evaluate on an ongoing basis:

- *Their use of appropriate feeding techniques;*
- *Whether they are assisting assigned residents according to their identified eating and drinking needs;*
- *Whether they are providing assistance in recognition of the rights and dignity of the resident; and*
- *Whether they are adhering to safety and infection control practices.*

Adequate supervision by a supervising nurse does not necessarily mean constant visual contact or being physically present during the meal/snack time, especially if a feeding assistant is assisting a resident to eat in his or her room. However, whatever the location, the feeding assistant must be aware of and know how to access the supervisory nurse immediately in the event that an emergency should occur. Should an emergency arise, a paid feeding assistant must immediately call a supervisory nurse for help on the resident call system.

The charge nurse and the supervisory nurse may or may not be the same individuals

Resident Call System

The regulatory language at this Tag states that, "in an emergency, a feeding assistant must call a supervisory nurse for help on the resident call system." Residents may be receiving assistance in eating or drinking in various locations throughout the facility, such as dining areas, activity rooms, or areas such as patios or porches in which a resident call system is not readily available. The resident call system requirement at §483.70(f), F463, only specifies that the call system be available in the residents rooms and bathrooms. Regardless of where a resident is being assisted to eat or drink, in the case of an emergency, the facility needs to have a means for a paid feeding assistant to obtain timely help of a supervisory nurse. Therefore, for the purposes of this requirement, a "resident call system" includes not only the standard hard-wired or wireless call system, but other means in an emergency situation by which a paid feeding assistant can achieve timely notification of a supervisory nurse.

Use of Existing Staff as Paid Feeding Assistants

Facilities may use their existing staff to assist eligible residents to eat and drink. These employees must have successfully completed a State-approved training course for paid feeding assistants, which has a minimum of 8 hours of training as required in §483.160. Staff may include, for example, administrative, clerical, housekeeping, dietary staff, or activity specialists. Employees used as paid feeding assistants, regardless of their position, are subject to the same training and supervisory requirements as any other paid feeding assistant.

Maintenance of Training Records

The facility must maintain a record of all employees used by the facility as paid feeding assistants. The record should include verification that they have successfully completed a State-approved training course for paid feeding assistants.

INVESTIGATIVE PROTOCOL

Use of Paid Feeding Assistants

Objectives

The objectives of this protocol are to determine, for a facility that uses paid feeding assistants:

- *If individuals used as paid feeding assistants successfully completed a State-approved training course;*
- *If sampled residents who were selected to receive assistance from paid feeding assistants were assessed by the charge nurse and determined to be eligible to receive these services based on the latest assessment and plan of care; and*

- *If the paid feeding assistants are supervised by an RN or LPN.*

Use

This protocol is used when a surveyor identifies concerns through observation; interview with residents, family, or staff; or record review, that the facility may not be following the requirements regarding paid feeding assistants, including proper training and supervision of feeding assistants, and proper selection of residents for feeding assistance.

Procedures

Briefly review the comprehensive assessment and interdisciplinary care plan to guide observations to be made. The team coordinator assigns one surveyor to obtain the facility's records of all employees, used by the facility as paid feeding assistants, for review for completion of the training course for paid feeding assistants.

Observations

If the concern was discovered through resident or family interview, observe the resident while they are being assisted to eat and drink by a paid feeding assistant. Determine if the assistant is using proper feeding technique and is providing the type of assistance specified in the resident's care plan. Note the resident's condition and observe for the presence of complicated feeding problems.

If the concern was discovered through observations that were already made, only conduct additional observations if necessary to complete the investigation.

Interviews

Resident and Family Interviews

If a resident is selected for this protocol through surveyor observation that they are having difficulties in eating or drinking and they are being assisted by a paid feeding assistant, interview the resident if the resident is interviewable. Ask questions to gain information about why the resident is receiving these services and the resident's experience with receiving assistance to eat and drink. If concerns are identified, inquire if they have reported these problems to a nurse. If the resident is not interviewable, ask these questions of a family member.

If the concern was discovered through resident or family interviews already conducted as part of Task 5D, focus any additional interview on questions specific to the investigation.

Paid Feeding Assistant Interviews

Interview the paid feeding assistant who was assisting the selected resident. Determine whether there are concerns with the paid feeding assistant's training, supervision, or the selection of the resident such as:

- *What training did you successfully complete in providing feeding assistance?*
- *What information did you receive about this resident's needs for assistance (type of assistance needed, any precautions)?*
- *In what manner and by whom are you supervised while assisting residents?*
- *What issues/problems do you report (such as coughing, choking, changes in the resident's usual responses, or level of alertness) and to whom do you report?*
- *What would you do if an emergency occurred while you were assisting a resident to eat or drink? Who would you contact and how would you contact them if you are not near the resident call system?*

Charge Nurse Interview

Interview the charge nurse who is responsible for assessing this resident as eligible to receive assistance by a paid feeding assistant. Ask:

- *How they determined that this resident has no complicated feeding problems and is eligible to be assisted by a paid feeding assistant;*
- *How they determine that each eligible resident remains free of emergent complicated feeding problems;*
- *Who supervises paid feeding assistants and how is the supervision accomplished;*
- *Describe the processes in place to handle emergencies when a supervisor is not present in the area where paid feeding assistants are assisting residents.*

Supervisory Nurse Interview

Interview the nurse who is supervising the resident during the meal or other times when the paid feeding assistant is assisting the resident to eat or drink. Ask how they supervise paid feeding assistants.

Review of Assessment of Eligibility to Receive Assistance from a Paid Feeding Assistant

Determine whether the charge nurse based her/his assessment of the resident's ongoing eligibility to be assisted by a paid feeding assistant on identification of the current condition of the resident and any additional or new risk factors or condition changes that may impact on the resident's ability to eat or drink. This information may be contained in the RAI or in other supporting documents such as progress notes, etc. The assessment of eligibility to receive assistance from a paid feeding assistant is ongoing and should be in place from the day of admission.

Requirements for Training of Paid Feeding Assistants

Determine how the facility identifies that paid feeding assistants have successfully completed a State-approved training course that meets the requirements at 42 CFR 483.160 before they are allowed to assist eligible residents with eating and drinking.

If the facility uses temporary (agency) staff as paid feeding assistants, request documentation that these staff have met the minimum training requirements specified by the State.

DETERMINATION OF COMPLIANCE (TASK 6, APPENDIX P)

The information below should be used by the survey team for their deficiency determination at Task 6 in Appendix P. The survey team must evaluate the evidence documented during the survey to determine if a deficiency exists due to a failure to meet a requirement, and if there are any negative resident outcomes or potential for negative outcomes due to the failure.

Synopsis of Regulation (42 CFR 483.35)

The paid feeding assistant requirement has five aspects:

- *Staff who are used as paid feeding assistants must have completed a State-approved training course;*
- *The facility must base resident selection to be fed by a paid feeding assistant on the charge nurse's assessment and resident's latest assessment and care plan;*
- *Paid feeding assistants must work under the supervision of an RN or LPN, and, in an emergency, must call a supervisory nurse for help on the resident call system;*
- *Paid feeding assistants assist only residents who have no complicated health problems related to eating or drinking that make them ineligible for these services; and*
- *The facility must maintain a record of all individuals used by the facility as paid feeding assistants, and must maintain documentation of successful completion of a State-approved training course by these individuals.*

Criteria for Compliance

Compliance with 42 CFR 483.35(h), F373, Paid Feeding Assistants

The facility is in compliance with this requirement if all the following are met:

- *The facility only employs paid feeding assistants who have successfully completed a State-approved training course before providing assistance;*

- *The facility selected qualified residents based on the charge nurse's ongoing assessment and the latest assessment and plan of care;*

- *The facility provides supervision by an RN or LPN;*

- *The facility provides in cases of emergency a working call system (and other means for areas without a call system) for the paid feeding assistant to summon help in an emergency;*

- *The facility ensures that the paid feeding assistant only assists residents who have no complicated health problems related to eating or drinking that make them ineligible for these services; and*

- *The facility maintains a record of all individuals used by the facility as paid feeding assistants, and maintains documentation of each paid feeding assistant's successful completion of a State-approved training course.*

  If not, cite F373.

Non-compliance for F373

After completing the investigative protocol, determine whether or not noncompliance with the regulation exists. Noncompliance for F373 may include, but is not limited to, one or more of the following:

- *An employee of the facility (permanent or temporary) who has not successfully completed the State-approved training course is assisting a resident to eat/drink;*

- *The facility allowed an employee who has completed a course that is not State-approved to assist a resident to eat or drink;*

- *A paid feeding assistant was observed assisting a resident in a location without a call system available or other means of emergency notification;*

- *A resident who was assessed by the charge nurse as ineligible for services due to complicated eating/drinking problems, or a resident who has not been assessed for eligibility, is being assisted by a paid feeding assistant;*

- *A paid feeding assistant was not being supervised by a RN or LPN;*

- *RN or LPN staff members assigned to supervise paid feeding assistants were observed to be unavailable (e.g., not in reach of contact);*

- *The clinical record of a resident being assisted by a paid feeding assistant did not show evidence that the resident was eligible to receive assistance from a paid feeding assistant;*

- *The facility did not maintain records of paid feeding assistants working in the facility; or*

- *The facility did not maintain documentation of a paid feeding assistant's successful completion of a State-approved paid feeding training course.*

Potential Tags for Additional Investigation

During the investigation of F373, the surveyor may have identified concerns with additional requirements related to outcome, process, and/or structure requirements. The surveyor is cautioned to investigate these related requirements before determining whether non-compliance may be present at these other tags. Examples of some of the related requirements that may be considered when non-compliance has been identified include the following (but are not limited to):

- *42 CFR 483.15(a), F241, Dignity*

    - *Determine if staff are attentive and responsive to the resident's requests, and if they provide assistance to eat in a manner that respects the resident's dignity, meets needs in a timely manner, and minimizes potential feelings of embarrassment, humiliation, and/or isolation related to inability to assist themselves with food or fluid intake.*

- *42 CFR 483.20(b), F272, Comprehensive Assessments*

    - *Review whether the facility initially and periodically conducted a comprehensive, accurate assessment of the resident's ability to eat and drink with or without assistance and/or identified a condition that makes the resident ineligible for this service.*

- *42 CFR 483.20(k)(1), F279, Comprehensive Care Plans*

- *Review whether the facility developed a comprehensive care plan that was based on the assessment of the resident's conditions, needs, and behaviors, and was consistent with the resident's goals in order to provide assistance with nutrition and hydration as necessary.*

- *42 CFR 483.20(k)(2)(iii), F280, Comprehensive Care Plan Revision*

  - *Determine if the care plan was reviewed and revised periodically, as necessary, related to eligibility to eat and drink with assistance of a paid feeding assistant.*

- *42 CFR 483.25(i)(1), F325, Nutritional Parameters*

  - *Review if the facility had identified, evaluated, and responded to a change in nutritional parameters, anorexia, or unplanned weight loss, dysphagia, and/or swallowing disorders in relation to the resident's ability to eat.*

- *42 CFR 483.25(i)(2), F327, Hydration*

  - *Review if the facility had identified, evaluated, and responded to a change in the resident's ability to swallow liquids.*

- *42 CFR 483.25 (a)(3) F312, ADL Assistance for Dependent Residents*

  - *Determine if staff identified and implemented appropriate measures to provide food and fluids for the resident who cannot perform relevant activities of daily living.*

- *42 CFR 483.30(a), F353, Sufficient Staff*

  - *Determine if the facility has qualified staff in sufficient numbers to provide assistance to eat or drink to those residents who require such assistance. For residents who are not eligible to receive assistance from paid feeding assistants, determine if there are sufficient CNAs to provide this assistance to these residents in a timely fashion.*

- *42 CFR 483.75(i)(2), F501, Medical Director*

  - *Determine whether the medical director collaborates with the facility to help develop, implement, and evaluate resident care policies and procedures based on current standards of practice, e.g., the use of paid feeding assistants, their supervision, and the criteria for determining which residents are eligible to receive assistance to eat or drink from paid feeding assistants.*

IV. DEFICIENCY CATEGORIZATION (Part IV, Appendix P)

Once the team has completed its investigation, analyzed the data, reviewed the regulatory requirement, and identified any deficient practice(s) that demonstrate that non-compliance with the regulation at F373 exists, the team must determine the severity of the deficient practice(s) and the resultant harm or potential for harm to the resident. The key elements for severity determination for F373 are as follows:

1. ***Presence of harm/negative outcome(s) or potential for negative outcomes because of lack of appropriate use of paid feeding assistants.***

   Non-compliance related to an actual or potential harm/negative outcome for F373 may include, but is not limited to:

   - *A resident who is not eligible to receive these services is assisted by a paid feeding assistant; or*

   - *A resident who is eligible to receive these services is assisted by a paid feeding assistant and develops coughing and/or choking episodes related to the paid feeding assistant using poor techniques indicating lack of appropriate supervision*

2. ***Degree of harm (actual or potential) related to the non-compliance:***

   Identify how the facility practices caused, resulted in, allowed, or contributed to the actual or potential for harm:

   - *If harm has occurred, determine if the harm is at the level of serious injury, impairment, death, compromise, or discomfort; or*

   - *If harm has not yet occurred, determine how likely is the potential for serious injury, impairment, death, or compromise or discomfort to occur to the resident.*

3. ***The immediacy of correction required:***

   Determine whether the non-compliance requires immediate correction in order to prevent serious injury, harm, impairment, or death to one or more residents.

The survey team must evaluate the harm or potential for harm based upon the following levels of severity for tag F373. First, the team must rule out whether Severity Level 4, Immediate Jeopardy to a resident's health or safety exists by evaluating the deficient practice in relation to immediacy, culpability, and severity. (Follow the guidance in Appendix Q, Guidelines for Determining Immediate Jeopardy.)

NOTE: *The death or transfer of a resident who was harmed or injured as a result of facility non-compliance does not remove a finding of immediate jeopardy. The facility is required to implement specific actions to*

correct the non-compliance which allowed or caused the immediate jeopardy.

Severity Level 4 Considerations: Immediate Jeopardy to Resident Health or Safety

Immediate Jeopardy is a situation in which the facility's non-compliance with one or more requirements of participation:

- *Has allowed/caused/resulted in, or is likely to cause/allow/result in serious injury, harm, impairment, or death to a resident; and*

- *Requires immediate correction as the facility either created the situation or allowed the situation to continue by failing to implement preventative or corrective measures.*

Examples of the facility's non-compliance that may cause or contribute to negative outcomes at severity level 4 include, but are not limited to:

- *An eligible resident in an activity room who is being improperly assisted to eat by a paid feeding assistant, experiences choking, there was no call system readily available, and/or the supervising nurse was not available to assist, and the resident expired;*

- *A resident who is not eligible to receive these services due to complicated feeding problems is assisted by a paid feeding assistant, whether or not the resident has experienced negative outcomes.*

NOTE: *If immediate jeopardy has been ruled out based upon the evidence, then evaluate whether actual harm that is not immediate jeopardy exists at severity level 3.*

Severity Level 3 Considerations: Actual Harm that is not Immediate Jeopardy

Level 3 indicates non-compliance that results in actual harm, and can include but may not be limited to clinical compromise, decline, or the failure to maintain and/or reach the resident's highest practicable well-being.

Examples of the facility's non-compliance that may cause or contribute to negative outcomes at severity level 3 include, but are not limited to:

- *An eligible resident who was assessed to have the potential to improving their eating ability was assisted to eat by a paid feeding assistant. The assistant provided too much food, too quickly and the resident was pocketing the food in her cheeks. The resident experienced choking and coughing and subsequently vomited. As a result, the resident became fearful, refused solid foods, and would only consume liquid dietary supplements.*

***NOTE**: If severity level 3 (actual harm that is not immediate jeopardy) has been ruled out based upon the evidence, then evaluate as to whether level 2 (no actual harm with the potential for more than minimal harm) exists.*

Severity Level 2 Considerations: No Actual Harm with potential for more than minimal harm that is Not Immediate Jeopardy

Level 2 indicates non-compliance that results in a resident outcome of no more than minimal discomfort and/or has the potential to compromise the resident's ability to maintain or reach his or her highest practicable level of well being. The potential exists for greater harm to occur if interventions are not provided.

Examples of the facility's non-compliance that may cause or contribute to negative outcomes at severity level 2 include, but are not limited to:

- *Paid feeding assistants are assisting eligible residents to eat in an area with no call system, and the supervising nurses are not nearby, but there have been no resident outcomes; and*

- *Eligible residents are being assisted to eat by employees who have not successfully completed a State-approved paid feeding assistant training course and who otherwise by State law would not be allowed to feed residents (such as RNs, LPNs or CNAs), and there were no resident negative outcomes.*

Severity Level 1: No actual harm with potential for minimal harm

Level 1 is a deficiency that has the potential for causing no more than a minor negative impact on the resident(s).

Examples of the facility's non-compliance that may cause or contribute to negative outcomes at severity level 1 include, but are not limited to:

- *Facility did not maintain a record of employees who had completed a State approved paid feeding assistant training program and were used by the facility as paid feeding assistants.*

F493

§483.75(d) Governing Body

(1) The facility must have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility; and

(2) The governing body appoints the administrator who is--

(i) Licensed by the State where licensing is required; and

(ii) Responsible for the management of the facility.

Interpretive Guidelines: §483.75(d)(2)(1)

The administrator must be licensed where required by the State.

§483.75(e) Required Training of Nursing Aides

(Rev. 26; Issued: 08-17-07; Effective/Implementation Dates: 08-17-07)

(1) Definitions

"Licensed health professional" means a physician; physician assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse; or licensed or certified social worker.

"Nurse aide" means any individual providing nursing or nursing-related services to residents in a facility who is not a licensed health professional, a registered dietitian, or someone who volunteers to provide such services without pay.

Nurse aides do not include those individuals who furnish services to residents only as paid feeding assistants as defined in §488.301 of this chapter.

F522

§483.75(p) Disclosure of Ownership

(1) The facility must comply with the disclosure requirements of §§420.206 and 455.104 of this chapter.

(2) The facility must provide written notice to the State agency responsible for licensing the facility at the time of change, if a change occurs in--

(i) Persons with an ownership or control interest, as defined in §§420.201 and 455.101 of this chapter;

(ii) The officers, directors, agents, or managing employees;

(iii) The corporation, association, or other company responsible for the management of the facility; or

(iv) The facility's administrator or director of nursing.

(3) The notice specified in the paragraph (p)(2) of this section must include the identity of each new individual or company.

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§483.75(q) Required Training of Feeding Assistants

(Rev. 26; Issued: 08-17-07; Effective/Implementation Dates: 08-17-07)

A facility must not use any individual working in the facility as a paid feeding assistant unless that individual has successfully completed a State-approved training program for feeding assistants, as specified in §483.160 of this part.

Guidelines: §483.75(q)

Note: Refer to F373