

42 CFR 483.35

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§ 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.

- (a) Staffing. The facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis.
 - (1) If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian.
 - (2) A qualified dietitian is one who is qualified based upon either registration by the Commission on Dietetic Registration of the American Dietetic Association, or on the basis of education, training, or experience in identification of dietary needs, planning, and implementation of dietary programs.
- (b) Sufficient staff. The facility must employ sufficient support personnel competent to carry out the functions of the dietary service.
- (c) Menus and nutritional adequacy. Menus must --
 - (1) Meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;
 - (2) Be prepared in advance; and
 - (3) Be followed.
- (d) Food. Each resident receives and the facility provides --
 - (1) Food prepared by methods that conserve nutritive value, flavor, and appearance;
 - (2) Food that is palatable, attractive, and at the proper temperature;
 - (3) Food prepared in a form designed to meet individual needs; and
 - (4) Substitutes offered of similar nutritive value to residents who refuse food served.
- (e) Therapeutic diets. Therapeutic diets must be prescribed by the attending physician.
- (f) **Frequency of meals.**
 - (1) Each resident receives and the facility provides at least three meals daily, at regular times comparable to normal mealtimes in the community.
 - (2) There must be no more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in (4) below.
 - (3) The facility must offer snacks at bedtime daily.

(4) When a nourishing snack is provided 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, and a nourishing snack is served.

- (g) Assistive devices. The facility must provide special eating equipment and utensils for residents who need them.
- (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.
- (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.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

Secs. 1102, 1128I and 1871 of the Social Security Act ([42 U.S.C. 1302](#), 1320a-7j, and 1395hh).

History

[56 FR 48874, Sept. 26, 1991; [68 FR 55528, 55539](#), Sept. 26, 2003]

Annotations

Notes

[EFFECTIVE DATE NOTE:

[68 FR 55528, 55539](#), Sept. 26, 2003, amended this section, effective Oct. 27, 2003.]

Case Notes

NOTES TO DECISIONS: COURT AND ADMINISTRATIVE DECISIONS SIGNIFICANTLY DISCUSSING SECTION --

[Menorah Manor, Inc. v Agency for Health Care Admin. \(2005, Fla App D1\) 908 So 2d 1100, 30 FLW D 1717](#)

LexisNexis® Notes

Case Notes Applicable to Entire Part

[Part Note](#)

[Resident Councils v. Leavitt, 500 F.3d 1025, 2007 U.S. App. LEXIS 20956](#) (9th Cir Aug. 31, 2007).

Overview: Congress had not defined "nursing or nursing-related services," and the Secretary of Health and Human Services reasonably concluded that such services did not necessitate the extensive training required of nurse aides and that permitting trained feeding assistants to assume such tasks would advance the overall goals of the Nursing Home Reform Law.

- With regard to the Nursing Home Reform Law (Reform Law), feeding assistants must first successfully complete a state-approved training course including at least eight hours of training. [42 C.F.R. §§ 483.35\(h\)\(1\)\(i\), 483.75\(q\), 483.160\(a\)](#). In addition, feeding assistants may feed only those residents who have no complicated feeding problems (such as difficulty swallowing, recurrent lung aspirations, and tube or parenteral/IV feedings). [42 C.F.R. § 483.35\(h\)\(3\)](#). Resident eligibility to be fed by feeding assistants is based on the charge nurse's assessment and the resident's latest assessment and plan of care. [42 C.F.R. § 483.35\(h\)\(3\)\(iii\)](#). Further, feeding assistants must work under the supervision of a registered, or licensed practical, nurse and must call a supervisory nurse for assistance in the case of an emergency. [42 C.F.R. § 483.35\(h\)\(2\)](#). Finally, the rule clarifies that feeding assistants are meant to supplement, not supplant, nurse aides. 68 Fed. Reg. 55,529. [Go To Headnote](#)

Research References & Practice Aids
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NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: Nomenclature changes affecting Chapter IV appear at [45 FR 53806](#), Aug. 13, 1980; [50 FR 12741](#), Mar. 29, 1985; [50 FR 33034](#), Aug. 16, 1985; [51 FR 41338](#), Nov. 14, 1986; [53 FR 6634](#), Mar. 2, 1988; [53 FR 47201](#), Nov. 22, 1988; [56 FR 8852](#), Mar. 1, 1991; [66 FR 39450, 39452](#), July 31, 2001; [67 FR 36539, 36540](#), May 24, 2002; [77 FR 29002, 29028](#), May 16, 2012.]

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