
CMS Manual System

Pub. 100-07 State Operations Provider Certification

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

Transmittal 70

Date: January 7, 2011

NOTE: Transmittal 70, dated January 7, 2011, is being reissued to include Exhibits 93, and 264 – 267, that were inadvertently omitted. The Transmittal number, date issued and all other information remain the same.

NOTE: Transmittal 66, dated October 1, 2010, is being rescinded and replaced by Transmittal 70, dated January 7, 2011, to correct revision numbers, implementation and effective dates that were erroneously changed. The sections that should have been changed will be shown as Revision 70, Issued: 01-07-11, and Effective: 10-01-10 Implementation 10-01-10. All other information remains the same.

**SUBJECT: Revisions to Appendix PP, State Operations Manual (SOM):
Guidance to Surveyors for Long Term Care Facilities (LTC) for Minimum Data Set
(MDS) 3.0 Implementation October 1, 2010**

I. SUMMARY OF CHANGES: Revision of Interpretive Guidelines throughout Appendix PP and to CMS Forms 672, 802 and 805 due to the release of the MDS version 3.0 to remove references to MDS version 2.0, including the replacement of the Resident Assessment Protocols (RAPs) terminology with the Care Area Assessment (CAAs) terminology. Clarifying revisions have also been made to the Interpretive Guidelines at 42 CFR 483.65 regarding infection control and 42 CFR 483.75 regarding nurse aides and nurse aide training.

**NEW/REVISED MATERIAL - EFFECTIVE DATE*: October 1, 2010
IMPLEMENTATION DATE: October 1, 2010**

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 PP/ Revisions throughout F-tags 222 - 502
R	Exhibits 93, 264 – 267 (CMS Forms 672, 802, 802P, 802S, & 805)

EXHIBIT 3

State Operations Manual

Appendix PP - Guidance to Surveyors for Long Term Care Facilities

Table of Contents

(Rev. 70, 01-07-11)

Transmittals for Appendix PP

INDEX

- §483.5: Definitions
- §483.10 Resident Rights
 - §483.10(a) Exercise of Rights
 - §483.10(b) Notice of Rights and Services
 - §483.10(c) Protection of Resident Funds
 - §483.10(d) Free Choice
 - §483.10(e) Privacy and Confidentiality
 - §483.10(f) Grievances
 - §483.10(g) Examination of Survey Results
 - §483.10(h) Work
 - §483.10(i) Mail
 - §483.10(j) Access and Visitation Rights
 - §483.10(k) Telephone
 - §483.10(l) Personal Property
 - §483.10(m) Married Couples
 - §483.10(n) Self-Administration of Drugs
 - §483.10(o) Refusal of Certain Transfers
- §483.12 Admission, Transfer, and Discharge Rights
 - §483.12(a) Transfer, and Discharge
 - §483.12(b) Notice of Bed-Hold Policy and Readmission
 - §483.12(c) Equal Access to Quality Care
 - §483.12(d) Admissions Policy
- §483.13 Resident Behavior and Facility Practices
 - §483.13(a) Restraints
 - §483.13(b) Abuse
 - §483.13(c) Staff Treatment of Residents (F224* and F226**)

- §483.15 Quality of Life
 - §483.15(a) Dignity
 - §483.15(b) Self-Determination and Participation
 - §483.15(c) Participation in Resident and Family Groups
 - §483.15(d) Participation in Other Activities
 - §483.15(e) Accommodation of Needs
 - §483.15(f) Activities
 - §483.15(g) Social Services
 - §483.15(h) Environment
- §483.20 Resident Assessment
 - §483.20(a) Admission Orders
 - §483.20(b) Comprehensive Assessments
 - §483.20(c) Quality Review Assessment
 - §483.20(d) Use
 - §483.20(e) Coordination
 - §483.20(f) Automated Data Processing Requirement
 - §483.20(g) Accuracy of Assessment
 - §483.20(h) Coordination
 - §483.20(i) Certification
 - §483.20(j) Penalty for Falsification
 - §483.20(k) Comprehensive Care Plans
 - §483.20(l) Discharge Summary
 - §483.20(m) Preadmission Screening for Mentally Ill Individuals and Individuals With Mental Retardation.
- §483.25 Quality of Care
 - §483.25(a) Activities of Daily Living
 - §483.25(b) Vision and hearing
 - §483.25(c) Pressure Sores
 - §483.25(d) Urinary Incontinence
 - §483.25(e) Range of motion.
 - §483.25(f) Mental and Psychosocial Functioning
 - §483.25(g) Naso-Gastric Tubes
 - §483.25(h) Accidents
 - §483.25(i) Nutrition
 - §483.25(j) Hydration
 - §483.25(k) Special Needs
 - §483.25(l) Unnecessary Drugs
 - §483.25(m) Medication Errors

INVESTIGATIVE PROTOCOL

ACTIVITIES

Objective

To determine if the facility has provided an ongoing program of activities designed to accommodate the individual resident's interests and help enhance her/his physical, mental and psychosocial well-being, according to her/his comprehensive resident assessment.

Use

Use this procedure for each sampled resident to determine through interview, observation and record review whether the facility is in compliance with the regulation.

Procedures

Briefly review the comprehensive assessment and interdisciplinary care plan to guide observations to be made.

1. Observations

Observe during various shifts in order to determine if staff are consistently implementing those portions of the comprehensive plan of care related to activities. Determine if staff take into account the resident's food preferences and restrictions for activities that involve food, and provide ADL assistance and adaptive equipment as needed during activities programs. For a resident with personal assistive devices such as glasses or hearing aides, determine if these devices are in place, glasses are clean, and assistive devices are functional.

For a resident whose care plan includes group activities, observe if staff inform the resident of the activities program schedule and provide timely transportation, if needed, for the resident to attend in-facility activities and help the resident access transportation to out-of-facility and community activities.

Determine whether the facility provides activities that are compatible with the resident's known interests, needs, abilities and preferences. If the resident is in group activity programs, note if the resident is making attempts to leave, or is expressing displeasure with, or sleeping through, an activity program. If so, determine if staff attempted to identify the reason the resident is attempting to leave, and if they addressed the resident's needs. Determine whether the group activity has been adapted for the resident as needed and whether it is "person appropriate."

NOTE: If you observe an activity that you believe would be age inappropriate for most residents, investigate further to determine the reason the resident and staff

selected this activity. The National Alzheimer's Association has changed from endorsing the idea of "age-appropriate" activities to promoting "person-appropriate" activities. In general, surveyors should not expect to see the facility providing dolls or stuffed animals for most residents, but some residents are attached to these items and should be able to continue having them available if they prefer.

Regarding group activities in common areas, determine if the activities are occurring in rooms that have sufficient space, light, ventilation, equipment and supplies. Sufficient space includes enough space for residents to participate in the activity and space for a resident to enter and leave the room without having to move several other residents. Determine if the room is sufficiently free of extraneous noise, such as environmental noises from mechanical equipment and staff interruptions.

For a resident who is involved in individual activities in her/his room, observe if staff have provided needed assistance, equipment and supplies. Observe if the room has sufficient light and space for the resident to complete the activity.

2. Interviews

Resident/Representative Interview. Interview the resident, family or resident representative as appropriate to identify their involvement in care plan development, defining the approaches and goals that reflect the resident's preferences and choices. Determine:

- What assistance, if any, the facility should be providing to facilitate participation in activities of choice and whether or not the assistance is being provided;
- Whether the resident is participating in chosen activities on a regular basis, and if not, why not;
- Whether the resident is notified of activities opportunities and is offered transportation assistance as needed to the activity location within the facility or access to transportation, where available and feasible, to outside activities;
- Whether the facility tried, to the extent possible, to accommodate the resident's choices regarding her/his schedule, so that service provision (for example, bathing and therapy services) does not routinely conflict with desired activities;
- Whether planned activity programs usually occur as scheduled (instead of being cancelled repeatedly); and
- Whether the resident desires activities that the facility does not provide.

If the resident has expressed any concerns, determine if the resident has discussed these with staff and, if so, what was the staff's response.

Activity Staff Interview

Interview activities staff as necessary to determine:

- The resident's program of activities and related goals;
- What assistance/adaptations they provide in group activities according to the resident's care plan;
- How regularly the resident participates; if not participating, what is the reason(s);
- How they assure the resident is informed of, and transported to, group activities of choice;
- How special dietary needs and restrictions are handled during activities involving food;
- What assistance they provide if the resident participates in any individual (non-group) activities; and
- How they assure the resident has sufficient supplies, lighting, and space for individual activities.

CNA Interview

Interview CNAs as necessary to determine what assistance, if needed, the CNA provides to help the resident participate in desired group and individual activities, specifically:

- Their role in ensuring the resident is out of bed, dressed, and ready to participate in chosen group activities, and in providing transportation if needed;
- Their role in providing any needed ADL assistance to the resident while she/he is participating in group activities;
- Their role in helping the resident to participate in individual activities (if the resident's plan includes these), for example, setup of equipment/supplies, positioning assistance, providing enough lighting and space; and
- How activities are provided for the resident at times when activities staff are not available to provide care planned activities.

Social Services Staff Interview

Interview the social services staff member as necessary to determine how they help facilitate resident participation in desired activities; specifically, how the social services staff member:

- Addresses the resident's psychosocial needs that impact on the resident's ability to participate in desired activities;
- Obtains equipment and/or supplies that the resident needs in order to participate in desired activities (for example, obtaining audio books, helping the resident replace inadequate glasses or a hearing aid); and
- Helps the resident access his/her funds in order to participate in desired activities that require money, such as attending concerts, plays, or restaurant dining events.

Nurse Interview

Interview a nurse who supervises CNAs who work with the resident to determine how nursing staff:

- Assist the resident in participating in activities of choice by:
 - Coordinating schedules for ADLs, medications, and therapies, to the extent possible, to maximize the resident's ability to participate;
 - Making nursing staff available to assist with activities in and out of the facility;
- If the resident is refusing to participate in activities, how they try to identify and address the reasons; and
- Coordinate the resident's activities participation when activities staff are not available to provide care planned activities.

3. Record Review

Assessment

Review the RAI, activity documentation/notes, social history, discharge information from a previous setting, and other interdisciplinary documentation that may contain information regarding the resident's activity interests, preferences and needed adaptations.

Compare information obtained by observation of the resident and interviews with staff and the resident/responsible party (as possible), to the information in the resident's

record, to help determine if the assessment accurately and comprehensively reflects the resident's status. Determine whether staff have identified:

- Longstanding interests and customary routine, and how the resident's current physical, mental, and psychosocial health status affects her/his choice of activities and her/his ability to participate;
- Specific information about how the resident prefers to participate in activities of interest (for example, if music is an interest, what kinds of music; does the resident play an instrument; does the resident have access to music to which she/he likes to listen; and can the resident participate independently, such as inserting a CD into a player);
- Any significant changes in activity patterns before or after admission;
- The resident's current needs for special adaptations in order to participate in desired activities (e.g., auditory enhancement or equipment to help compensate for physical difficulties such as use of only one hand);
- The resident's needs, if any, for time-limited participation, such as a short attention span or an illness that permits only limited time out of bed;
- The resident's desired daily routine and availability for activities; and
- The resident's choices for group, one-to-one, and self-directed activities.

Comprehensive Care Planning

Review the comprehensive care plan to determine if that portion of the plan related to activities is based upon the goals, interests, and preferences of the resident and reflects the comprehensive assessment. Determine if the resident's care plan:

- Includes participation of the resident (if able) or the resident's representative;
- Considers a continuation of life roles, consistent with resident preferences and functional capacity;
- Encourages and supports the development of new interests, hobbies, and skills;
- Identifies activities in the community, if appropriate;
- Includes needed adaptations that address resident conditions and issues affecting activities participation; and

- Identifies how the facility will provide activities to help the resident reach the goal(s) and who is responsible for implementation (e.g., activity staff, CNAs, dietary staff).

If care plan concerns are noted, interview staff responsible for care planning regarding the rationale for the current plan of care.

Care Plan Revision

Determine if the staff have evaluated the effectiveness of the care plan related to activities and made revisions, if necessary, based upon the following:

- Changes in the resident's abilities, interests, or health;
- A determination that some aspects of the current care plan were unsuccessful (e.g., goals were not being met);
- The resident refuses, resists, or complains about some chosen activities;
- Changes in time of year have made some activities no longer possible (e.g., gardening outside in winter) and other activities have become available; and
- New activity offerings have been added to the facility's available activity choices.

For the resident who refused some or all activities, determine if the facility worked with the resident (or representative, as appropriate) to identify and address underlying reasons and offer alternatives.

DETERMINATION OF COMPLIANCE (Task 6, Appendix P)

Synopsis of Regulation (F248)

This requirement stipulates that the facility's program of activities should accommodate the interests and well-being of each resident. In order to fulfill this requirement, it is necessary for the facility to gain awareness of each resident's activity preferences as well as any current limitations that require adaptation in order to accommodate these preferences.

Criteria for Compliance

The facility is in compliance with this requirement if they:

- Recognized and assessed for preferences, choices, specific conditions, causes and/or problems, needs and behaviors;
- Defined and implemented activities in accordance with resident needs and goals;

- Monitored and evaluated the resident's response; and
- Revised the approaches as appropriate.

If not, cite at F248.

Noncompliance for Tag F248

After completing the Investigative Protocol, analyze the information gained in order to determine whether noncompliance with the regulation exists. Activities (F248) is an outcome-oriented requirement in that compliance is determined separately for each resident sampled. The survey team's review of the facility's activities program is conducted through a review of the individualization of activities to meet each resident's needs and preferences. For each sampled resident for whom activities participation was reviewed, the facility is in compliance if they have provided activities that are individualized to that resident's needs and preferences, and they have provided necessary adaptations to facilitate the resident's participation. Non compliance with F248 may look like, but is not limited to the following:

The facility does not have an activity program and does not offer any activities to the resident;

- A resident with special needs does not receive adaptations needed to participate in individualized activities;
- Planned activities were not conducted or designed to meet the resident's care plan;

Potential Tags for Additional Investigation

During the investigation of the provision of care and services related to activities, the surveyor may have identified concerns with related outcome, process and/or structure requirements. The surveyor is cautioned to investigate these related requirements before determining whether noncompliance may be present. Some examples of requirements that should be considered include the following (not all inclusive):

- 42 CFR 483.10(e), F164, Privacy and Confidentiality
 - Determine if the facility has accommodated the resident's need for privacy for visiting with family, friends, and others, as desired by the resident.
- 42 CFR 483.10(j)(1) and (2), F172, Access and Visitation Rights

- Determine if the facility has accommodated the resident's family and/or other visitors (as approved by the resident) to be present with the resident as much as desired, even round-the-clock.
- 42 CFR 483.15(b), F242, Self-Determination and Participation
 - Determine if the facility has provided the resident with choices about aspects of her/his life in the facility that are significant to the resident.
- 42 CFR 483.15(e)(1), F246, Accommodation of Needs
 - Determine if the facility has provided reasonable accommodation to the resident's physical environment (room, bathroom, furniture, etc.) to accommodate the resident's individual needs in relation to the pursuit of individual activities, if any.
- 42 CFR 483.15(f)(2), F249, Qualifications of the Activities Director
 - Determine if a qualified activities director is directing the activities program.
- 42 CFR 483.15(g)(1), F250, Social Services
 - Determine if the facility is providing medically-related social services related to assisting with obtaining supplies/equipment for individual activities (if any), and assisting in meeting the resident's psychosocial needs related to activity choices.
- 43 CFR 483.20(b)(1), F272, Comprehensive Assessment
 - Determine if the facility assessed the resident's activity needs, preferences, and interests specifically enough so that an individualized care plan could be developed.
- 43 CFR 483.20(k)(1), F279, Comprehensive Care Plan
 - Determine if the facility developed specific and individualized activities goals and approaches as part of the comprehensive care plan, unless the resident is independent in providing for her/his activities without facility intervention.
- 43 CFR 483.20(k)(2), F280, Care Plan Revision
 - Determine whether the facility revised the plan of care as needed with input of the resident (or representative, as appropriate).

- 43 CFR 483.30(a), F353, Sufficient Staff
 - Determine if the facility had qualified staff in sufficient numbers to assure the resident was provided activities based upon the comprehensive assessment and care plan.
- 43 CFR 483.70(g), F464, Dining and Activities Rooms
 - Determine if the facility has provided sufficient space to accommodate the activities and the needs of participating residents and that space is well lighted, ventilated, and adequately furnished.
- 43 CFR 483.75(g), F499, Staff Qualifications
 - Determine if the facility has employed sufficient qualified professional staff to assess residents and to develop and implement the activities approaches of their comprehensive care plans.

V. DEFICIENCY CATEGORIZATION (Part V, Appendix P)

Deficiencies at F248 are most likely to have psychosocial outcomes. The survey team should compare their findings to the various levels of severity on the Psychosocial Outcome Severity Guide at Appendix P, Part V.

F249

§483.15(f)(2) The activities program must be directed by a qualified professional who--

(i) Is a qualified therapeutic recreation specialist or an activities professional who--

(A) Is licensed or registered, if applicable, by the State in which practicing; and

(B) Is eligible for certification as a therapeutic recreation specialist or as an activities professional by a recognized accrediting body on or after October 1, 1990; or

- (ii) Has 2 years of experience in a social or recreational program within the last 5 years, 1 of which was full-time in a patient activities program in a health care setting; or
- (iii) Is a qualified occupational therapist or occupational therapy assistant; or
- (iv) Has completed a training course approved by the State.

INTENT: (F249) §483.15(f)(2) Activities Director

The intent of this regulation is to ensure that the activities program is directed by a qualified professional.

DEFINITIONS

“Recognized accrediting body” refers to those organizations that certify, register, or license therapeutic recreation specialists, activity professionals, or occupational therapists.

ACTIVITIES DIRECTOR RESPONSIBILITIES

An activity director is responsible for directing the development, implementation, supervision and ongoing evaluation of the activities program. This includes the completion and/or directing/delegating the completion of the activities component of the comprehensive assessment; and contributing to and/or directing/delegating the contribution to the comprehensive care plan goals and approaches that are individualized to match the skills, abilities, and interests/preferences of each resident.

Directing the activity program includes scheduling of activities, both individual and groups, implementing and/or delegating the implementation of the programs, monitoring the response and/or reviewing/evaluating the response to the programs to determine if the activities meet the assessed needs of the resident, and making revisions as necessary.

NOTE: Review the qualifications of the activities director if there are concerns with the facility’s compliance with the activities requirement at §483.15(f)(1), F248, or if there are concerns with the direction of the activity programs.

A person is a qualified professional under this regulatory tag if they meet any one of the qualifications listed under 483.15(f)(2).

DETERMINATION OF COMPLIANCE (Task 6, Appendix P)

Synopsis of Regulation (F249)

This requirement stipulates that the facility's program of activities be directed by a qualified professional.

Criteria for Compliance

The facility is in compliance with this requirement if they:

- Have employed a qualified professional to provide direction in the development and implementation of activities in accordance with resident needs and goals, and the director:
 - Has completed or delegated the completion of the activities component of the comprehensive assessment;
 - Contributed or directed the contribution to the comprehensive care plan of activity goals and approaches that are individualized to match the skills, abilities, and interests/preferences of each resident;
 - Has monitored and evaluated the resident's response to activities and revised the approaches as appropriate; and
 - Has developed, implemented, supervised and evaluated the activities program.

If not, cite at F249.

Noncompliance for F249

Tag F249 is a tag that is absolute, which means the facility must have a qualified activities professional to direct the provision of activities to the residents. Thus, it is cited if the facility is non-compliant with the regulation, whether or not there have been any negative outcomes to residents.

Noncompliance for F249 may include (but is not limited to) one or more of the following, including:

- Lack of a qualified activity director; or
- Lack of providing direction for the provision of an activity program;

V. DEFICIENCY CATEGORIZATION (Part V, Appendix P)

Once the team has completed its investigation, reviewed the regulatory requirements, and determined that noncompliance exists, the team must determine the severity of each deficiency, based on the resultant effect or potential for harm to the resident. The key elements for severity determination for F249 are as follows:

1. Presence of harm/negative outcome(s) or potential for negative outcomes due to a lack of an activities director or failure of the director to oversee, implement and/or provide activities programming.
 - Lack of the activity director's involvement in coordinating/directing activities; or
 - Lack of a qualified activity director.
2. Degree of harm (actual or potential) related to the noncompliance.

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

- If harm has occurred, determine level of harm; and
- If harm has not yet occurred, determine the potential for discomfort to occur to the resident.

3. The immediacy of correction required.

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

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

Immediate jeopardy is not likely to be issued as it is unlikely that noncompliance with F249 could place a resident or residents into a situation with potential to sustain serious harm, injury or death.

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

Level 3 indicates noncompliance that results in actual harm, and may include, but is not limited to the resident's inability to maintain and/or reach his/her highest practicable well-being. In order to cite actual harm at this tag, the surveyor must be able to identify a relationship between noncompliance cited at Tag F248 (Activities) and failure of the provision and/or direction of the activity program by the activity director. For Severity Level 3, both of the following must be present:

1. Findings of noncompliance at Severity Level 3 at Tag F248; and

2. There is no activity director; or the facility failed to assure the activity director was responsible for directing the activity program in the assessment, development, implementation and/or revision of an individualized activity program for an individual resident; and/or the activity director failed to assure that the facility's activity program was implemented.

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 noncompliance 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. In order to cite Level 2 at Tag F249, the surveyor must be able to identify a relationship between noncompliance cited at Level 2 at Tag F248 (Activities) and failure of the provision and/or direction of activity program by the activity director. For Severity Level 2 at Tag F249, both of the following must be present:

1. Findings of noncompliance at Severity Level 2 at Tag F248; and
2. There is no activity director; or the facility failed to involve the activity director in the assessment, development, implementation and/or revision of an individualized activity program for an individual resident; and/or the activity director failed to assure that the facility's activity program was implemented.

Severity Level 1 Considerations: No Actual Harm with Potential for Minimal Harm
In order to cite Level 1, no actual harm with potential for minimal harm at this tag, the surveyor must be able to identify that:

There is no activity director and/or the activity director is not qualified, however:

- Tag F248 was not cited;
- The activity systems associated with the responsibilities of the activity director are in place;
- There has been a relatively short duration of time without an activity director; and
- The facility is actively seeking a qualified activity director.