

Center for Medicaid, CHIP, and Survey & Certification/Survey & Certification Group

Ref: S&C: 11-38-NH

DATE: September 7, 2011

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Compliance with Food Procurement Requirements for Nursing Homes with Gardens Producing Foods for Residents

Memorandum Summary

- **Policies and Procedures:** Facilities with nursing home gardens are compliant with the food procurement requirements at 42 CFR 483.35(i), Sanitary Conditions, Tag F371 as long as the facilities have and follow policies and procedures for maintaining the gardens.
- **Outbreaks of Food Borne Illness from any Cause:** The facility should immediately report any outbreaks of food borne illnesses, from any cause, to their local health department. Surveyors should request the policy and procedures for maintaining nursing home gardens if there is an outbreak of food-borne illness and the facility's primary food service source has been ruled out as the cause of the outbreak.

The Centers for Medicare & Medicaid Services (CMS) and the Food and Drug Administration (FDA) have received inquiries from nursing homes and State survey agencies asking if Federal law permits nursing homes to have produce gardens and use the foods harvested on the menu for any portion of the resident population. Residents can benefit from having a variety of fresh foods for their consumption, as long as the dangers of food-borne illness are mitigated to the greatest extent possible through the facility. The facility should be following safe food handling practices once foods are harvested and brought to the kitchen for preparation.

Nursing homes with gardens are compliant with the food procurement requirements at 42 CFR 483.35(i), Sanitary Conditions, F371 as long as the facility has and follows policies and procedures for maintaining the gardens. Surveyors should request the policy and procedures for maintaining nursing home gardens if there is an outbreak of food-borne illness and the facility's primary food service source has been ruled out as the cause of the outbreak. Facilities should report all outbreaks of food-borne illnesses to their local health department.

If there are local or State requirements related to food grown on the facility grounds for resident consumption, facilities are to be in compliance with the specific State requirement.

Noncompliance with food procurement requirements should be cited at Tag F371.

Effective Date: Immediately. Please ensure that all appropriate staff are fully informed within 30 days of the date of this memorandum.

Training: The information must be shared with all nursing home survey and certification staff, surveyors, managers, and the State and CMS regional office training coordinators.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management