



Center for Clinical Standards and Quality

Ref: QSO-24-13-NH

DATE: June 18, 2024

TO: State Survey Agency Directors

FROM: Directors, Quality, Safety & Oversight Group (QSOG) and Survey & Operations Group (SOG)

SUBJECT: Revised Guidance for Long-Term Care Facility Assessment Requirements

Memorandum Summary

- Under the “Minimum Staffing Standards for Long-Term Care (LTC) Facilities and Medicaid Institutional Payment Transparency Reporting” final rule, the requirements for Facility Assessment have been revised. These revised requirements have been moved to 42 CFR 483.71. Existing regulations at 42 CFR 483.70(f) through (q) have been redesignated as paragraphs (e) through (p), respectively.
- CMS is issuing revised guidance for State Survey Agencies and long-term care facilities (LTC) on the revised requirements.

Background:

On May 10, 2024, CMS published new regulations under §483.71, Facility Assessment, as part of the *Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care (LTC) Facilities and Medicaid Institutional Payment Transparency Reporting* final rule ([89 FR 40876](#)). These new provisions become effective 90 days after publication and must be implemented by August 8, 2024. The new requirements specify that the facility assessment must include an evaluation of diseases, conditions, physical or cognitive limitations of the resident population, acuity (the level of severity of residents’ illnesses, physical, mental, and cognitive limitations, and conditions) and any other pertinent information about the resident population as a whole that may affect the services the facility must provide. The assessment of the resident population should drive staffing decisions and inform the facility about what skills and competencies staff must possess in order to deliver the necessary care required by the residents being served. The assessment of the resident population should also contribute to identifying additional needs for residents, such as the physical space, equipment, assisted technology, individual communication devices, or other material resources that are needed to provide the required care and services to residents. In conducting the facility assessment, the facility must ensure active involvement from key individuals, such as the

facility's leadership, and direct care staff (e.g., nurses), and also solicit input from residents and families.

State Operations Manual (SOM), Appendix PP

Appendix PP of the SOM has been updated to include the revised regulatory requirements that were released in the final rule, and updated guidance for F838 – Facility Assessment. This version of Appendix PP is effective August 8, 2024.

Survey Procedures

CMS will update associated survey documents, such as the Extended Survey and Infection Prevention Control and Immunization Critical Element Pathways, which will be found under the "[Survey Resources](#)" link in the Downloads Section of the [CMS Nursing Homes webpage](#) and will also be added to the Long-Term Care Survey Process software application.

We note that while the facility assessment is intended to help facilities identify the appropriate amount of staff and resources needed, surveyors will continue to assess if facilities have sufficient nursing staff to meet residents' needs. In other words, while facilities may be found to be in substantial compliance with the requirements at §483.71 for a facility assessment, if surveyors find that residents' needs are not being met due to insufficient staffing, the facility will be cited for noncompliance at §483.35 and required to implement a plan of correction.

Regulations

§483.71 Facility assessment.

The facility must conduct and document a facility-wide assessment to determine what resources are necessary to care for its residents competently during both day-to-day operations (*including nights and weekends*) and emergencies. The facility must review and update that assessment, as necessary, and at least annually. The facility must also review and update this assessment whenever there is, or the facility plans for, any change that would require a substantial modification to any part of this assessment.

§483.71(a) The facility assessment must address or include *the following*:

§483.71(a)(1) The facility's resident population, including, but not limited to:

- (i) Both the number of residents and the facility's resident capacity;**
- (ii) The care required by the resident population, *using evidence-based, data-driven methods that* consider the types of diseases, conditions, physical and *behavioral health needs*, cognitive disabilities, overall acuity, and other pertinent facts that are present within that population, *consistent with and informed by individual resident assessments as required under § 483.20*;**
- (iii) The staff competencies *and skill sets* that are necessary to provide the level and types of care needed for the resident population;**
- (iv) The physical environment, equipment, services, and other physical plant considerations that are necessary to care for this population; and**
- (v) Any ethnic, cultural, or religious factors that may potentially affect the care provided by the facility, including, but not limited to, activities and food and nutrition services.**

§483.71(a)(2) The facility's resources, including but not limited to *the following*:

- (i) All buildings and/or other physical structures and vehicles;
- (ii) Equipment (medical and non- medical);
- (iii) Services provided, such as physical therapy, pharmacy, *behavioral health*, and specific rehabilitation therapies;
- (iv) All personnel, including managers, *nursing and other direct care* staff (both employees and those who provide services under contract), and volunteers, as well as their education and/or training and any competencies related to resident care;
- (v) Contracts, memorandums of understanding, or other agreements with third parties to provide services or equipment to the facility during both normal operations and emergencies; and
- (vi) Health information technology resources, such as systems for electronically managing patient records and electronically sharing information with other organizations.

§483.71(a)(3) A facility-based and community-based risk assessment, utilizing an all-hazards approach *as required in §483.73(a)(1)*.

§ 483.71(b) In conducting the facility assessment, the facility must ensure:

§ 483.71(b)(1) Active involvement of the following participants in the process:

- (i) Nursing home leadership and management, including but not limited to, a member of the governing body, the medical director, an administrator, and the director of nursing; and*
- (ii) Direct care staff, including but not limited to, RNs, LPNs/LVNs, NAs, and representatives of the direct care staff, if applicable.*
- (iii) The facility must also solicit and consider input received from residents, resident representatives, and family members.*

§483.71(c) The facility must use this facility assessment to:

§483.71(c)(1) Inform staffing decisions to ensure that there are a sufficient number of staff with the appropriate competencies and skill sets necessary to care for its residents' needs as identified through resident assessments and plans of care as required in § 483.35(a)(3).

§483.71(c)(2) Consider specific staffing needs for each resident unit in the facility and adjust as necessary based on changes to its resident population.

§483.71(c)(3) Consider specific staffing needs for each shift, such as day, evening, night, and adjust as necessary based on any changes to its resident population.

§483.71(c)(4) Develop and maintain a plan to maximize recruitment and retention of direct care staff.

§483.71(c)(5) Inform contingency planning for events that do not require activation of the facility's emergency plan, but do have the potential to affect resident care, such as, but not

limited to, the availability of direct care nurse staffing or other resources needed for resident care.

Contact:

For questions or concerns relating to this memorandum, please contact DNH_TriageTeam@cms.hhs.gov.

Effective Date:

August 8, 2024

/s/

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Director, Quality, Safety & Oversight Group

Resources to Improve Quality of Care:

Check out CMS's new Quality in Focus interactive video series. The series of 10–15 minute videos are tailored to provider types and intended to reduce the deficiencies most commonly cited during the CMS survey process, like infection control and accident prevention. Reducing these common deficiencies increases the quality of care for people with Medicare and Medicaid.

Learn to:

- *Understand surveyor evaluation criteria*
- *Recognize deficiencies*
- *Incorporate solutions into your facility's standards of care*

See the [Quality, Safety, & Education Portal Training Catalog](#), and select Quality in Focus

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(Rev.)

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§483.71(a) The facility assessment must address or include *the following*:

§483.71(a)(1) The facility's resident population, including, but not limited to:

- (i) Both the number of residents and the facility's resident capacity;
- (ii) The care required by the resident population, *using evidence-based, data-driven methods that* considering the types of diseases, conditions, physical and *behavioral health needs*, cognitive disabilities, overall acuity, and other pertinent facts that are present within that population, *consistent with and informed by individual resident assessments as required under § 483.20*;
- (iii) The staff competencies *and skill sets* that are necessary to provide the level and types of care needed for the resident population;
- (iv) The physical environment, equipment, services, and other physical plant considerations that are necessary to care for this population; and
- (v) Any ethnic, cultural, or religious factors that may potentially affect the care provided by the facility, including, but not limited to, activities and food and nutrition services.

§483.71(a)(2) The facility's resources, including but not limited to *the following*:

- (i) All buildings and/or other physical structures and vehicles;
- (ii) Equipment (medical and non- medical);
- (iii) Services provided, such as physical therapy, pharmacy, *behavioral health*, and specific rehabilitation therapies;
- (iv) All personnel, including managers, *nursing and other direct care* staff (both employees and those who provide services under contract), and volunteers, as well as their education and/or training and any competencies related to resident care;
- (v) Contracts, memorandums of understanding, or other agreements with third parties to provide services or equipment to the facility during both normal operations and emergencies; and
- (vi) Health information technology resources, such as systems for electronically managing patient records and electronically sharing information with other organizations.

§483.71(a)(3) A facility-based and community-based risk assessment, utilizing an all-hazards approach *as required in §483.73(a)(1)*.

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- (i) Nursing home leadership and management, including but not limited to, a member of the governing body, the medical director, an administrator, and the director of nursing; and**
- (ii) Direct care staff, including but not limited to, RNs, LPNs/LVNs, NAs, and representatives of the direct care staff, if applicable.**
- (iii) The facility must also solicit and consider input received from residents, resident representatives, and family members.**

§483.71(c) The facility must use this facility assessment to:

§483.71(c)(1) Inform staffing decisions to ensure that there are a sufficient number of staff with the appropriate competencies and skill sets necessary to care for its residents' needs as identified through resident assessments and plans of care as required in § 483.35(a)(3).

§483.71(c)(2) Consider specific staffing needs for each resident unit in the facility and adjust as necessary based on changes to its resident population.

§483.71(c)(3) Consider specific staffing needs for each shift, such as day, evening, night, and adjust as necessary based on any changes to its resident population.

§483.71(c)(4) Develop and maintain a plan to maximize recruitment and retention of direct care staff.

§483.71(c)(5) Inform contingency planning for events that do not require activation of the facility's emergency plan, but do have the potential to affect resident care, such as, but not limited to, the availability of direct care nurse staffing or other resources needed for resident care.

INTENT

The intent of the facility assessment is for the facility to evaluate its resident population and identify the resources needed to provide the necessary care and services the residents require *during both day-to-day operations (including nights and weekends) and emergencies.*

DEFINITIONS

“Competency” *refers to* a measurable pattern of knowledge, skills, abilities, behaviors, and other characteristics in performing that an individual needs to perform work roles or occupational functions successfully.

“Representative of direct care employees” *is an employee of the facility or a third party authorized by direct care employees at the facility to provide expertise and input on behalf of the employees for the purposes of informing a facility assessment.*

GUIDANCE

A facility assessment may be similar to common business practices for strategic and capital budget planning. Strategic planning is an organization's process of defining its strategy, or direction, and making decisions on allocating its resources to pursue this strategy. However, while a facility may include input from its corporate organization, the facility assessment must

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be conducted at the facility level.

The facility assessment will enable each nursing home to thoroughly assess the needs of its resident population and the required resources to provide the care and services the residents need *using evidence-based, data-driven methods*. It should serve as a record for staff and management to understand the reasoning for decisions made regarding staffing and other resources, and may include the operating budget necessary to carry out facility functions.

To ensure the required thoroughness, individuals *actively* involved in the facility assessment *process must include, but are not limited to, the facility's leadership* (including a *member* of the governing body and the medical director), management (including the administrator and the director of nursing), *and direct care staff (including RNs, LPNs/LVNs, and NAs)*. The environmental operations manager, and other department heads (for example, the dietary manager, director of rehabilitation services, or other individuals) should be involved as needed.

Additionally, the facility must solicit and consider input from residents, their representative(s), family *members, and representatives of direct care staff* when formulating their assessment. *We note there are a variety of ways facilities can solicit this input, such as by distributing a questionnaire related to staffing to residents/families, placing convenient suggestion boxes throughout the facility for anonymous input, or providing annual notices for soliciting input to residents and families prior to conducting the annual review and update of the facility assessment.*

An assessment of the resident population is the foundation of the facility assessment. *Therefore, the assessment must address the resident population including both the number of residents and the facility's resident capacity. In addition,* it must include an evaluation of diseases, conditions, physical *and behavioral health needs*, cognitive status, acuity of the resident population, and any other pertinent information *consistent with resident assessments* that may affect and plan for the services the facility must provide (e.g., MDS data). *Examples of other pertinent information about the resident population the facility serves may include race, ethnicity, disability, sexual orientation, gender identity, socioeconomic status, preferred language, health literacy or other factors that affect access to care and health outcomes related to health equity.* The assessment of the resident population will also contribute to identifying the physical *environment*, equipment (*medical and non-medical*), assisted technology, individual communication devices, or other material resources that are needed to provide the required care and services to residents.

The regulation outlines that the individualized approach of the facility assessment is the foundation to determine staffing levels and competencies. Therefore, the facility assessment must include an evaluation of the overall number of facility staff needed to ensure sufficient number of qualified staff are available to meet each resident's needs *as identified through resident assessments and care plans*. Furthermore, the assessment must include a competency-based approach to determine the knowledge and skills required among staff (*including both employees and those who provide services under contract*) and *volunteers*, to ensure residents are able to maintain or attain their highest practicable physical, functional, mental, and psychosocial well-being and meet current professional standards of practice. This also includes any ethnic, cultural, or religious factors that may need to be considered to meet resident needs,

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such as activities, food preferences, *nutrition services*, and any other aspect of care identified. Finally, the assessment should consider a review of individual staff assignments and systems for coordination and continuity of care for residents within and across these staff assignments. Also refer to F553, §483.10 Resident Rights for more information and guidance on cultural competence.

The facility must review and update this assessment *as necessary, and at least* annually or whenever there is, or the facility plans for, any change that would require a modification to any part of this assessment. For example, if the facility decides to admit residents with care needs who were previously not admitted, such as residents on ventilators or dialysis, the facility assessment must be reviewed and updated to address how the facility staff, resources, physical environment, etc., meet the needs of those residents and any areas requiring attention, such as any training or supplies required to provide care. *Additionally, the facility must consider specific staffing needs for each shift (e.g., day, evening, night, weekend shifts) and for each resident unit in the facility based on changes to resident population.*

The assessment must include or address an evaluation of the facility's training program to ensure any training needs are met for all new and existing staff *including managers, nursing and other direct care staff*, individuals providing services under a contractual arrangement, and volunteers, consistent with their expected roles. The assessment should also include an evaluation of what policies and procedures may be required in the provision of care and that these meet current professional standards of practice. If there are any concerns regarding training refer to §483.95 Training.

The facility assessment must be used to develop and maintain a plan to maximize direct care staff recruitment and retention. The facility assessment must include an evaluation of any contracts, memorandums of understanding including third party agreements for the provision of goods, services or equipment to the facility during both normal operations and emergencies. The facility assessment must address their process for overseeing these services and how those services will meet resident needs and regulatory, operational, maintenance, and staff training requirements. For example, if the facility contracts for language translation, the assessment must address how those contractors will ensure services are provided both during normal operational hours and during emergencies.

The facility assessment must consider health information technology resources, such as managing resident records and electronically sharing information with other organizations. For example, the assessment should address how the facility will securely transfer health information to a hospital, home health agency, or other providers for any resident transferred or discharged from the facility.

The facility assessment must include an evaluation of the physical environment necessary to meet the needs of the residents. This must include an evaluation of how the facility needs to be equipped and maintained to protect and promote the health and safety of residents. This should also include an evaluation of building maintenance capital improvements, or structures, vehicles, or medical and non-medical equipment and supplies.

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The facility assessment must be used to create a contingency plan for events that do not require the activation of the facility emergency plan but have the potential to impact resident care, such as the availability of direct care nurse staffing or other resources needed for care of residents. For example, the use of contract licensed nurses to cover several shifts during a holiday.

The facility based and community-based risk assessment, utilizing an all-hazards approach must evaluate the facility's ability to maintain continuity of operations and its ability to secure required supplies and resources during an emergency or natural disaster. For example, if the facility is located in a flood zone, the risk assessment must include an evaluation of how residents will be kept safe and needs met during a flood affecting the facility. Facility staff should consider involving their local/county Office of Emergency Preparedness when conducting this community based risk assessment. The facility's emergency preparedness plans as required under §483.73 (a)(1) should be integrated and compatible with the facility assessment. As one is updated, so should the other.

Risk Assessment is general terminology that is within the emergency preparedness regulations and preamble to the Final Rule (81 Fed. Reg. 63860, Sept. 16, 2016) which describes a process facilities are to use to assess and document potential hazards within their areas and the vulnerabilities and challenges which may impact the facility. Additional terms currently used by the industry are all-hazards risk assessments, also referred to as Hazard Vulnerability Assessments (HVAs, or all-hazards self-assessments). For the purposes of these guidelines, we are using the term "risk assessment," which may include a variety of current industry practices used to assess and document potential hazards and their impacts.

Hazard Vulnerability Assessments (HVAs) are systematic approaches to identifying hazards or risks that are most likely to have an impact on a healthcare facility and the surrounding community. The HVA describes the process by which a provider or supplier will assess and identify potential gaps in its emergency plan(s).

Potential loss scenarios should be identified first during the risk assessment. Once a risk assessment has been conducted and a facility has identified the potential hazards/risks they may face, the organization can use those hazards/risks to conduct a Business Impact Analysis.

This guidance is not specifying which type of generally accepted emergency preparedness risk assessment facilities should have, as the language used in defining risk assessment activities is meant to be easily understood by all providers and suppliers that are affected by this final rule and is aligned with the national preparedness system and terminology (81 Fed. Reg. 63860, at 63875). However, facilities are expected to conduct a full assessment of hazards based on geographical location and the individual facility dynamics, such as patient population.

INVESTIGATIVE PROCEDURES

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Surveyors determine whether a facility assessment contains the required components under the regulation. However, they should not evaluate the quality of the assessment. If systemic care concerns are identified that are related to the facility's planning, review the facility assessment to determine if these concerns were considered as part of the facility's assessment process. For example, if a facility recently started accepting bariatric residents, and concerns are identified related to providing bariatric services, did facility staff update its assessment before accepting residents with these needs to identify the necessary equipment, staffing, etc., needed to provide care that is effective and safe for the residents and staff? Questions surveyors should consider include, but are not limited to, the following:

- *Does the facility assessment include an evaluation of the resident population, and its needs (e.g., acuity) based on evidence-based, data-driven methods? Does this reflect the population observed? Does it address the facility's resident capacity?*
- *Does the facility assessment include information on the staffing level(s) needed for specific shifts, such as day, evening, and night and adjusted as necessary based on changes to resident population?*
- *Does the facility assessment address what skills and competencies are required by those providing care?*
- *Was the facility assessment conducted with input from the individuals stated in the regulation (483.71(b))?*
- *Does the facility assessment indicate what resources, including but not limited to, equipment, supplies, services, personnel, health information technology, and physical environment are required to meet all resident needs?*
- *Does the facility have a plan for maximizing recruitment and retention of direct care staff?*
- *Does the facility assessment include a contingency plan that is informed by the facility assessment?*

KEY ELEMENTS OF NONCOMPLIANCE

To cite deficient practice at F838, the surveyor's investigation will generally show that the facility failed to do any one of the following:

- Annually and as necessary, conduct, document, review and update a facility-wide assessment; **or**
- Address or include in the facility assessment the minimum requirements as described in sections § 483.71(a), (b), and (c).

POTENTIAL TAGS FOR ADDITIONAL INVESTIGATION

If the survey investigation reveals that there are not sufficient or competent staff refer to:

- F639, §483.21(b)(3), Comprehensive Person-Centered Care Planning;
- F725 or 726, §483.35(a),(c) for any nursing services not related to behavioral health care or dementia care;
- F741, §483.40 for any staff caring for residents with dementia or a history of trauma and/or post-traumatic stress disorder;
- F801, §483.60(a) for Food and Nutrition staff;

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- F826, §483.65(b), Specialized rehabilitative services;
- F839, §483.70(e), Staff qualifications;
- F837, §483.70(d), Governing Body
- F865, §483.75, QAPI/QA&A

DEFICIENCY *EXAMPLES*

- One of the sampled residents had experienced a fall while staff were transferring them *from the bed to a chair as a result of a faulty mechanical lift*. The resident's care plan indicates requiring a two-person assist using a mechanical lift. After the fall, the resident was evaluated and although he did not suffer any physical harm, upon interview he did express psychological harm and stated he was afraid of using these lifts and would prefer to remain in bed. Interviews with *direct care* staff indicated that many of the lifts are old, in frequent need of repair, and often malfunction when used. A review of the *current* Facility Assessment did not include or address equipment necessary to provide for the needs of residents *and did not have active involvement of direct care staff in the process*.
- The facility recently admitted several individuals, some that follow a vegan diet and others that follow the Judaism faith, both of which include dietary restrictions. *These individuals did not previously reside in the facility and represents a substantial change in the resident population. The residents* expressed concerns that they are not always able to choose foods that are consistent with their cultural beliefs. Upon review of the facility assessment, the facility *did not review and update their assessment based on this change in their resident population. As a result, the facility did not adjust the menus for these newly admitted* residents. When reviewing the Facility Assessment, the survey team identified that while the assessment included all the required components, it had not been reviewed for any potential updates in the last 15 months. Facilities are required to review and update the assessment *as necessary and* at least annually. *Even though there were no changes to resident needs, staffing, or other resources*, the facility's failure to review the assessment within 12 months may result in the facility failing to identify a factor that would require a change to the assessment, thereby potentially placing the residents at risk for at least minimal harm.