



September 12, 2019

Centers for Medicare & Medicaid Services
Department of Health and Human Services
ATTN: CMS-3347-P
7500 Security Blvd., Mail Stop C4-26-05
Baltimore, MD 21244-1850

Re: Medicare and Medicaid Programs; Requirements for Long-Term Care Facilities: Regulatory Provisions To Promote Efficiency, and Transparency [CMS-3347-P]

The Association of Nutrition & Foodservice Professionals (ANFP) submits these comments in response to the Centers for Medicare & Medicaid Services (CMS) proposed revisions to Medicare and Medicaid long-term care requirements that CMS has identified as “unnecessary, obsolete, or excessively burdensome.” ANFP is a national not-for-profit association representing more than 15,000 Certified Dietary Manager, Certified Food Protection Professional (CDM,CFPP) professionals dedicated to the mission of providing optimum nutritional care through foodservice management and food safety.

A Certified Dietary Manager, Certified Food Protection Professional (CDM,CFPP) has passed a nationally recognized credentialing exam, with the CDM,CFPP offered by the Certifying Board for Dietary Managers. Continuing education, specifically including hours in sanitation and food safety, is required to maintain the CDM,CFPP credential. The exam is written by content experts, and administered by PSI Services, LLC.

ANFP is the premier professional organization for foodservice managers, directors, and those aspiring to careers in foodservice management – particularly in healthcare and other non-commercial foodservice settings. Over ninety percent of ANFP members work in healthcare and a majority of those in long-term care facilities. In healthcare settings, dietary managers often run food and nutrition departments, typically working in tandem with Registered Dietitians and other members of the healthcare team. They may provide supportive nutrition screening, documentation and care planning in accordance with their Professional Scope of Practice.

ANFP supports current language in §483.60(a)(2), Food and Nutrition Services, of the 2016 CMS final rule “Medicare and Medicaid Programs: Reform of Requirements for Long-Term Care Facilities,” requiring that the director of food and nutrition services, if hired after the effective date of these regulations, must be a CDM,CFPP. We applaud the requirement of a CDM,CFPP who possesses validated competencies that ensure facilities store, prepare, distribute, and serve food in accordance with professional standards of foodservice management and safety.

As such, ANFP strongly opposes the CMS proposal to replace these reasonable and cost-effective requirements that enhance quality in LTC facilities with language that would allow individuals with little to no training to be the director of food and nutrition services in LTC facilities. Specifically, revising the required qualifications for a director of food and nutrition services to enable those that simply have either “2 or more years of experience” or “completed a minimum course of study in food safety” is counter-productive for the following reasons:

1. The CDM scope of practice allows for the clinical participation in the Care Planning Process and supporting professional standards of care being a member of the Inter-Disciplinary Team, which is now mandated in §483.21(b)(2)(ii) of the 2016 CMS final rule for LTC.
2. With regard to Survey Tags, it should be noted that the category of “Sanitation and Food Safety” has consistently been listed in the top 5 of nationwide LTC citations. In order to improve upon this situation, having a higher standard of food safety training for those in charge of the kitchens is the way to bring about improved food safety.
3. As with any new training requirements, a clear explanation of the basis and particulars of such requirements is tremendously important to their acceptance and assimilation by covered entities. However, it appears that the training requirements for the director of food and nutrition services in §483.60 of the 2016 final rule as it currently reads was not clarified well in order to allay concerns and demonstrate the benefits. With the focus CMS has on quality care and its new focus on all staff competencies (Phase I, II & III), being able to have an educated Nutrition Professional trained in the competencies needed will help lead and train the dietary staff in safe food handling and choice in food and dining. A certificate 8-hour food safety training does not align with the proper competencies needed for managing and training staff; residents’ clinical needs in the absence/limited availability of an RD; and chewing and swallowing issues that must be addressed in the end stages of aging.
4. Since 2016, the number of approved training programs has grown by nearly 12% and there are several New Pathways to certification, some of which have been added since 2016:
 - a. Pathway 2 is not new, but open to those with a related associate’s degree or higher. Candidates from other foodservice arenas (culinary arts/hotel and restaurant management) lacking specific courses are able to take JUST the missing course(s) through an ANFP-approved online program so they could become eligible to take the CDM exam in only a few months.
 - b. Pathway 3 - those with 2 years non-commercial foodservice management experience, but no related education can become qualified to take the CDM exam in under 12 months by:
 - i. Path 3A: Completing a 90-hour foodservice curriculum course.
 - ii. Path 3B: Completing the instructional portion only (no precepting) of an ANFP approved foodservice manager training program.
 - c. Since June 1, 2016, the number of exam candidates has been substantial:
 - i. 3,681 exam candidates have passed the CDM, CFPP exam.
 - ii. 3,157 people have graduated an ANFP-approved training program.

5. *It is important to note that some ANFP approved programs are offered online and, because there is no precepting needed, they are available to anyone, anywhere, at any time.*

We further disagree with proposed revisions to Food and Nutrition Services in §483.60 for the director of food and nutrition services, because CMS itself has stated that food, nutrition and dining are critical components of quality of care and involve meeting the nutritional needs of a population that is diverse with increasingly higher levels of acuity.

- a. In fact, the director of food and nutrition services is required under CMS guidelines to participate in comprehensive and person-centered care planning (F656 and F657) in order to provide meals to a diverse population, and provide food that is safe, nutritionally balanced, timely, and overall meets the resident's expectation. This is reflected in CMS guidance for F801 Staffing; F802 Staffing (appropriate competencies and skills); F656 and F657 participation in the IDT for a comprehensive person-centered care plan; F838 Facility Assessment for Food and Nutrition Services; and guidelines for F803-814 – and all of these guidelines/requirements cannot be met with the proposed revisions to §483.60(a)(2). In 2018, skilled nursing facilities with a CDM had 19% average fewer Nutrition & Foodservice Related tags on inspection (Tags include 800, 801, 802, 803, 804, 805, 806, 807, 808,809, 810, 811, 812, 813, 814, 948).
- b. In 2018, the average star rating of facilities with a CDM was 9% higher than in those without a CDM.
- c. From the Technomic-conducted CDM Impact Program study, conducted in 2018, facilities with a CDM show significantly less turnover. The turnover rate in facilities with a CDM is 23% lower than in facilities without a CDM.
- d. From the Technomic-conducted CDM Impact Program study, conducted in 2018, CDMs are more likely to use improved patient outcomes as a measure of success. The percentage of CDMs using this indicator as a measure of success is 44% higher than non-CDMs.

Today's director of food and nutrition services must have skills in healthcare with food and nutrition; technology for purchasing food; using the EHR; and managing food preparation/production and service. Purchasing requires a knowledge base of food distributor and manufacturer product linkage to menus to make sure foods purchased are safe, meets the menus used and supports fiscal management. There are also the skills required in managing a diverse and challenging labor market to hire and provide training and oversight needed to meet the Food and Nutrition Services requirements in §483.60.

The initial CMS requirements under Phase I of the 2016 final rule did not consider overall time frames and availability of accredited institutions to support these expectations. However, over the past few years individuals have spent time and financial resources rapidly responding to these unrealistic time frames. Accredited institutions have invested in staff and expanding their programs to provide the needed coursework to help individuals meet the criteria in §483.60(a)(2). Therefore, we propose the following changes to current regulatory text:

§483.60(a)(2) of current regulatory text states: If a qualified dietitian or other clinically qualified nutrition professional is not employed full-time, the facility must designate a person to serve as the director of food and nutrition services who –

DELETE (i) For designations prior to November 28, 2016, meets the following requirements no later than 5 years after November 28, 2016, or no later than 1 year after November 28, 2016 for designations after November 28, 2016, is: KEEP (A) A certified dietary manager [*As explained, ANFP has developed multiple pathways for an individual to be certified based on education and experience. If not already certified, then add regulatory text that they must be able to demonstrate that they are actively engaged and making progress in coursework towards certification. Each individual should have an individual education plan in place to provide to surveyors with a projected completion date for obtaining certification.*]; or DELETE (B) A certified food service manager, or KEEP (C) Has similar national certification for foodservice management and safety from a national certifying body [*Add that the certifying body must include coursework in healthcare along with a continuing education component.*]; or KEEP (D) Has an associate's or higher degree in food service management or in hospitality, if the course study includes food service or restaurant management from an accredited institution of higher learning [*Course study needs to include healthcare and nutrition to meet the nutritional needs of residents in long-term care. We also emphasize that coursework should be from an accredited institution of higher learning as there are many "certifications" available on the market not having appropriate training.*]; and KEEP (ii) In States that have established standards for foodservice managers or dietary managers, meets State requirements for food service managers or dietary managers.

To further ease the ability of LTC facilities as they continue to assimilate the requirements in §483.60(a)(2), we suggest giving students 12-15 months before citing the facility for non-compliance (with timing based on the annual-to-annual survey requirement to be completed within 15 months from previous year). In addition:

- The Nutrition & Foodservice Education Foundation offers grant and scholarship assistance to those who are currently certified and those who are seeking to become certified. Since 2016, the number of grants awarded has increased 100% (doubled). The amount of money awarded has increased 158%.
- Since 2016, ANFP increased its offering of complimentary, quality continuing education (CE). It is possible for ANFP members to meet 100% of their ongoing CE requirements with free ANFP resources. In addition, certificants can meet their CE requirements using required staff in-service training and various other CE resources that are free to the public.

Finally, the CMS proposed revision to Food and Nutrition Services (§483.60) to remove the requirement that if the facility does not employ a dietitian full time, the director of food and nutrition services must be a CDM also seems inconsistent with the administration's emphasis on boosting workforce training and certification. In June 2017, President Trump signed the Executive Order "Expanding Apprenticeships in America" to promote workforce development through Industry-Recognized Apprenticeship Programs. ANFP supports this initiative and also supports implementing the Strengthening Career and Technical Education for the 21st Century Act (H.R. 2352), which President Trump signed in 2018.

These initiatives will help generate more clearly defined career-paths and the skill-sets to take advantage of them for America's job seekers. This has also been a function of the CDM,CFPP credential in addition to maintaining the highest level of quality care in LTC facilities.

For the reasons stated above, ANFP strongly urges that the requirements in §483.60(a)(2) for the director of food and nutrition services remain unchanged or be slightly modified per our suggested language. Thank you for your consideration and we look forward to working with you to improve the level of quality in LTC facilities on this issue and wherever possible.

Sincerely,

A handwritten signature in black ink that reads "Joyce Gilbert". The signature is written in a cursive, flowing style.

Joyce Gilbert, PhD, RDN
President & CEO