



Arkansas Department of Human Services

Division of Medical Services

Office of Long Term Care Mail Slot S409

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<https://www.medicaid.state.ar.us/InternetSolution/General/units/oltc/index.aspx>

MEMORANDUM

LTC-R-2010-05

TO: Nursing Facilities; ICFs/MR 16 Bed & Over; HDCs;
 ICFs/MR Under 16 Beds; ALF Level I; ALF Level II;
 RCFs; Adult Day Cares; Adult Day Health Cares;
 Post-Acute Head Injury Facilities; Interested Parties;
 DHS County Offices

FROM: Carol Shockley, Director, Office of Long Term Care

DATE: May 4, 2010

RE: Regulation Memo - Waivers for Denials of Nurse Aide Training Programs

The Centers for Medicare and Medicaid Services (CMS) has announced a new, final rule that permits states to grant waivers to a facility when a facility's ability to offer a nurse aide training program is denied. **The rule is effective May 14, 2010.** The rule amends 42 C.F.R. § 483.151 by adding a new paragraph c. Under the rule, the state may provide a waiver to a facility whose ability to offer a nurse aide program has been denied when:

1. The disapproval was **solely** the result of the imposition of a civil money penalty of at least \$5,000; **and**,
2. The imposition of the civil money penalty of at least \$5,000 was not related to quality of care provided to residents in the facility.

In announcing the rule, CMS also provided guidance in the application of the rule. These included, but were not limited to, the following:

- The waiver can't be granted when there are other conditions that require disapproval.

- Training program disapproval waivers would also apply to a facility that serves as a training site for another program because it is being offered within the facility.

You may view the all comments and questions, CMS' responses thereto, and the final regulatory language at the web site:

<http://edocket.access.gpo.gov/2010/2010-8902.htm>

The new paragraph c reads as follows:

(c) Waiver of disapproval of nurse aide training programs.

(1) A facility may request that CMS waive the disapproval of its nurse aide training program when the facility has been assessed a civil money penalty of not less than \$5,000 if the civil money penalty was not related to the quality of care furnished to residents in the facility.

(2) For purposes of this provision, "quality of care furnished to residents" means the direct hands-on care and treatment that a health care professional or direct care staff furnished to a resident.

(3) Any waiver of disapproval of a nurse aide training program does not waive any requirement upon the facility to pay any civil money penalty.

To apply for a waiver, please review whether your facility meets the conditions set forth above. Then, send a written request, setting forth the survey date that resulted in a denial of the facility's ability to offer a nurse aide training program, to:

Office of Long Term Care
CNA Training Program Denial Waiver
P.O. Box 8059, Slot S405
Little Rock, AR 72203-8059

If you have questions regarding this memorandum, please contact Frank GoBell at 501-682-6298 or via email at frank.gobell@arkansas.gov.

If you need this material in alternative format such as large print, please contact our Americans with Disabilities Act Coordinator at 501-682-8307 (voice) or 501-682-6789 (TDD).

CS/bcs