

Long-Term Care Survey Alert

READER QUESTION: CMS Explains Residents Right to Choose Physicians

Q: We want to know where a SNF can draw the line in terms of a residents request to have a certain physician care for him. What if the physician doesnt comply with the facilitys requests for the physician to meet OBRA documentation requirements or the physician doesnt meet the facilitys credentialing requirements for specific certification, etc.? Can we, in such a case, deny the residents request for a certain physician?

Arizona subscriber

A: The **Centers for Medicare & Medicaid Services** interprets the facilitys right to set practice privileges to supercede the residents right to select a physician. The agency does not, however, intend the right of the medical director to set practice privileges to be so stringent that it interferes significantly with the residents right to select a physician.

The requirement at 42 CFR 483.10(d)(1) states that the resident has the right to choose a personal attending physician. However, the preamble to this requirement (page 48834 of the Federal Register, Volume 56, Number 187 for September 26, 1991) says: The vast majority of commenters argued in favor of having the residents right balanced by a facilitys right to grant or withdraw staff privileges to physicians. CMS responded with a statement saying the agency believes the right of the resident to choose a physician is not absolute.

In addition, the medical director requirement at 42 CFR 483.75(i) makes the medical director responsible for implementation of resident care policies... This term is defined in the interpretive guidance to this regulation as including setting policies for physician privileges and practices.

Expert advice provided by a CMS official.