

Nursing Home Care Standards

CANHR is a private, nonprofit 501(c)(3) organization dedicated to improving the quality of care and the quality of life for long term care consumers in California.

Overview

In exchange for Medicare and Medi-Cal payments, certified nursing homes agree to give each resident the best possible care. Specifically, they are required to help each resident attain or maintain the highest practicable physical, mental and psychosocial well-being.¹ Unless it is medically unavoidable, nursing homes must ensure that a resident's condition does not decline.² Care, treatment and therapies must be used to maintain and improve health to the extent possible,³ subject to the resident's right to choose and refuse services.⁴

Beyond these broad requirements, federal and California laws set many specific care standards. Key requirements are described below. Some of the care standards only apply to nursing homes that participate in the Medicare and Medi-Cal programs. Most California nursing homes participate in at least one of these programs.

Care standards are government expectations; however, they don't guarantee quality. If you are not receiving proper care, contact the long term care ombudsman program or CANHR for advice, or file a formal complaint with the California Department of Public Health. CANHR gives advocacy tips and instructions on how to file a complaint in its Fact Sheets: A Guide for Preventing Abuse in Long Term Care Facilities and How to File a Complaint Against a Nursing Home.

Each section includes endnotes that identify the laws and regulations explained in this guide. Key laws are abbreviated as follows: Title 22 of the California Code of Regulations as "22 CCR," Title 42 of the Code of Federal Regulations as "42 CFR," and Title 42 of the United States Code as "42 USC." For example, the citation in this section's first endnote, "42 USC §1396r(b)(2)" refers to Title 42 of the United States Code, at section 1396r, subsection (b), paragraph (2). The abbreviation CMS stands for The Centers for Medicare and Medicaid Services, which is a federal agency within the U.S. Department of Health and Human Services.

Accommodation of Needs

A resident has the right to reside and receive services in the facility with reasonable accommodations of individual needs and preferences.⁵ The facility should attempt to adapt such things as schedules, call systems, staff assignments and room arrangements to accommodate residents' preferences, desires and unique needs.⁶ For example, if a resident refuses a bath because he or she prefers a shower, prefers it at a different time of day or on a different day, does not feel well that day, is uneasy about the aide assigned to help or is worried about falling, the staff should make the necessary adjustments realizing that the resident is not refusing to be clean but refusing the bath under the circumstances provided.⁷

If language or communication barriers exist between residents and staff, the nursing home is required to use interpreters or other measures to ensure adequate communication.⁸

Adequate Staff

1. 42 USC §1396r(b)(2).
2. 42 CFR §483.25
3. 42 USC §1396r(b)(4).
4. 42 CFR 483.10(b)(4), Title 22 CCR §72527(4).
5. 42 CFR 483.15(e).
6. Surveyor's Guideline to 42 CFR §483.15(e), Appendix PP to CMS State Operation Manual.
7. Surveyor's Guideline to 42 CFR §483.15(e), Appendix PP to CMS State Operation Manual.
8. Title 22 CCR §72501(f), see also 42 CFR 483.10(b)(1).

Nursing homes must have sufficient nursing and other employees to meet the needs of each resident in the nursing home at all times.⁹ Additionally, California requires skilled nursing facilities to provide a minimum of 3.2 hours of nursing care per resident per day.¹⁰ If this staffing level is not adequate to meet resident needs, the nursing home must employ as many licensed nursing and certified nursing assistants as are needed. In a clearly visible place, a facility must post daily, for each shift, the current number of licensed and unlicensed nursing staff directly responsible for resident care.¹¹

Care Planning

Nursing homes must establish a comprehensive, individualized care plan for each resident that spells out care needs and how they will be met. For more information on care plans and your right to help shape yours, see CANHR's Fact Sheet, [Making Care Plans Work](#).

Continence and Help with Toileting

Urinary incontinence, the inability to control the bladder, is one of the most common reasons people seek nursing home care. Over half of California nursing home residents are considered incontinent. Incontinence and lack of toileting assistance cause many serious problems, including discomfort, skin rashes, pressure sores, falls, isolation and psychological harm.¹²

Incontinence is not a normal part of aging and is often reversible. Many times it is due to medications or treatable health conditions. Each resident with bladder or bowel control problems must be promptly assessed and be provided treatments and care that can improve the condition.¹³

Catheters cannot be used without valid medical justification.¹⁴ Catheters cause discomfort, limit mobility and increase the risk of infection, bladder stones and cancer.¹⁵ If a catheter is used, the nursing home must provide appropriate treatment and services to prevent urinary tract infections and to restore as much normal bladder function as possible.

Many nursing home residents are not incontinent but do need help with toileting. For example, a resident with limited mobility may need help to reach the toilet. Or a resident with dementia may need reminders to use the toilet on a regular basis. Nursing homes must help these residents use the toilet as often as needed.¹⁶

Feeding Tubes

Feeding tubes can only be used as a last resort because they lead to a loss of functioning and can cause serious medical and psychological problems. If a resident is able to swallow and can get adequate nutrition by eating, no matter how long it takes, then no tube should be used.¹⁷ Lack of staff time is not an acceptable excuse.¹⁸

With the resident's consent, a feeding tube can be used if there is a demonstrated medical need to prevent malnutrition or dehydration. Even here, all possible alternatives should be explored first.¹⁹ Residents fed by

9. 42 CFR §483.30, California Health & Safety Code §1599.1(a), Title 22 CCR §§72329(a) & 72501(e).

10. California Health and Safety Code §1276.5(a).

11. 42 USC §1396r(b)(8), 42 CFR §483.30(e), California Health & Safety Code §1276.65(f).

12. CMS' Resident Assessment Instrument Version 2.0 Manual, Appendix C, §6 (Urinary Incontinence & Indwelling Catheter), Page C-30, revised December 2002.

13. 42 CFR §483.25(d)(2), Title 22 CCR §72315(i).

14. 42 CFR §483.25(d)(1).

15. CMS' Resident Assessment Instrument Version 2.0 Manual, Appendix C, §6 (Urinary Incontinence & Indwelling Catheter), Page C-30, revised December 2002.

16. 42 CFR §483.25(a)(1).

17. 42 CFR §483.25(g)(1).

18. CMS' Resident Assessment Instrument Version 2.0 Manual, Appendix C, §13 (Feeding Tubes), Page C-68, revised December 2002.

19. CMS' Resident Assessment Instrument Version 2.0 Manual, Appendix C, §13 (Feeding Tubes), Page C-68, revised December 2002.

tube must receive the appropriate treatment and services to prevent aspiration pneumonia, diarrhea, vomiting, dehydration, and other adverse symptoms.²⁰

If a feeding tube is being used, the nursing home must do what it can to help the resident take food by mouth again as soon as possible.²¹

For residents with dementia, studies have shown that tube feeding does not extend life, prevent aspiration pneumonia, improve function, or limit suffering.²²

Fluids and Hydration

Many nursing home residents become dehydrated because they are not given sufficient fluids. Symptoms of dehydration include dizziness, confusion, constipation, fever, decreased urine output, and skin problems. Severe dehydration can lead to serious illness and death.²³

Nursing homes must provide each resident with sufficient fluids to maintain proper hydration and health.²⁴ Each resident should be provided a plentiful supply of fresh water or other beverages and be given any help or encouragement needed to drink.

Food and Nutrition

Nursing homes must provide each resident a nourishing, palatable, well-balanced diet that meets daily nutritional and special dietary needs.²⁵ Additionally, nursing homes must:

- Serve at least three meals daily, at regular times, with not more than a 14-hour span between the evening meal and breakfast;²⁶
- Offer snacks at bedtime;²⁷
- Reasonably accommodate resident food and mealtime preferences;²⁸
- Offer a food substitute of similar nutritional value if a resident refuses food;²⁹
- Serve food attractively, at the proper temperature, and in a form to meet individual needs;³⁰
- Prepare and follow menus that meet national dietary standards;³¹
- Plan menus with consideration of the residents' cultural backgrounds and food habits;³²
- Post the current and following week's menus for regular and special diets;³³
- Prepare food using methods that conserve nutritive value, flavor and appearance;³⁴
- Provide therapeutic diets to residents with nutritional problems, subject to physician orders;³⁵
- Ensure that a resident's ability to eat does not diminish unless it is medically unavoidable;³⁶

20. 42 CFR §483.25(g)(2).

21. 42 CFR §483.25(g).

22. Surveyor's Guideline to 42 CFR §483.25(g), Appendix PP to CMS State Operations Manual

23. CMS' Resident Assessment Instrument Version 2.0 Manual, Appendix C, §14 (Dehydration/Fluid Maintenance), Page C-74, revised December 2002.

24. 42 CFR §483.25(j), Title 22 CCR §72315(h).

25. Title 22 CCR §72335, 42 CFR §483.35.

26. Title 22 CCR §72335(a)(1), 42 CFR §483.35(f).

27. Title 22 CCR §72335(a)(2), 42 CFR §483.35(f).

28. Title 22 CCR §72335(a)(3), 42 USC §1396r(c)(1)(A)(v), 42 CFR §483.15(b)(1).

29. Title 22 CCR §72335(a)(3), 42 CFR §483.35(d)(4).

30. Title 22 CCR §72335(a)(7), 42 CFR §483.35(d).

31. Title 22 CCR §72341, 42 CFR §483.35(c).

32. Title 22 CCR §72341(f).

33. Title 22 CCR §72503(a)(3).

34. Title 22 CCR §72335(a)(7), 42 CFR §483.35(d).

35. 42 CFR §483.25(i)(2), 42 CFR §483.35(e), Title 22 CCR §72339.

36. 42 CFR §483.25(a)(1)(iv).

- Provide individualized help to residents who need assistance with meals, offering enough assistance and time so that residents can finish meals;³⁷
- Provide special eating utensils to residents who need them;³⁸
- Provide table service to all residents who desire it, served at tables of appropriate height;³⁹
- Store, prepare, distribute and serve food under sanitary conditions.⁴⁰

If a resident's ability to eat is compromised, the facility should establish an individualized care plan to maintain the resident's ability to eat food orally.⁴¹ For example, therapeutic programs can be used to help improve a resident's ability to swallow or to help a confused resident maintain a fixed eating routine.⁴²

Nursing homes must notify a resident's physician immediately if there are signs of malnutrition, such as a weight loss of 5 pounds or more within a 30 day period.⁴³ Federal guidelines urge nursing homes to reassess nutritional status whenever a resident experiences unplanned or undesired weight loss of 5 percent or more in one month, 7.5 percent or more in three months, or 10 percent or more in 6 months.⁴⁴

Infection Control

Nursing homes must have an organized infection control program that prevents diseases and infections from developing and spreading.⁴⁵ To meet this requirement, at a minimum, nursing homes must:

- Investigate, control and prevent infections in the facility;
- Screen residents and employees for tuberculosis;
- Decide what procedures should be applied to an individual resident;
- Isolate residents only to the degree needed to isolate infecting organisms, using the least restrictive method possible;
- Require staff members to wash their hands after each direct contact with a resident;
- Prohibit employees who have communicable diseases or infected skin conditions from having direct contact with residents or their food;
- Handle, store, process and transport linens in a way that prevents the spread of infections;
- Clean and disinfect contaminated articles and surfaces; and
- Maintain a record of infections and corrective actions.⁴⁶

Nursing homes are required to report cases of reportable communicable diseases and any outbreak of infectious or parasitic disease or infestation to local and state health officials.⁴⁷

If you are concerned about infection control, ask to see the nursing home's required policy on this issue.⁴⁸ Facilities with problems in this area often fail to follow their own policies despite legal requirements to do so.⁴⁹ Residents and their representatives have the right to see facility policies upon request.⁵⁰ Use the policies to demand that the facility make appropriate corrections or, if necessary, file a complaint with state officials.

37. 42 CFR §483.25(a)(1)-(3), Title 22 CCR §72315(g).

38. 42 CFR §483.35(g), Title 22 CCR §72335(a)(7), Title 22 CCR §72315(g).

39. Title 22 CCR §72335(a)(4).

40. 42 CFR §483.35(h), Title 22 CCR §72343 - 72349.

41. Title 22 CCR §72315(g), CMS' Resident Assessment Instrument Version 2.0 Manual, Appendix C, §12 (Nutritional Status), Page C-63, revised December 2002.

42. CMS' Resident Assessment Instrument Version 2.0 Manual, Appendix C, §12 (Nutritional Status), Page C-63, revised December 2002.

43. Title 22 CCR §72311(a)(3)(D).

44. Surveyor's Guideline to 42 CFR §483.25(i), Appendix PP to CMS State Operation Manual.

45. 42 CFR §483.65, Title 22 CCR §72321-72323.

46. 42 CFR §483.25(h), Title 22 CCR §72523(c)(2)(C), Title 22 CCR §72323, Title 22 CCR §72535, Title 22 CCR §72625-72627.

47. Title 22 CCR §72537-72541.

48. Title 22 CCR §72321(b), Title 22 CCR §72523(c)(3).

49. Title 22 CCR §72523(b).

Medications

Most residents depend on medicine to treat illness and maintain their health. In order to ensure that medications are available and used safely, federal and state rules require nursing homes and physicians to properly order, record, store, administer and monitor medications. Despite the detailed standards, medication problems, such as over-prescribing drugs and medication errors, are common.

Key medication requirements are summarized below:

Consent: Residents and their legal representatives have the right to consent to or to refuse any treatment, including use of medications.⁵¹ Physicians must seek consent before ordering or changing medications.

Choice of Pharmacy: Residents have the right to choose their own pharmacy, subject to certain limitations.⁵²

Timely Availability: Nursing homes must have 24-hour arrangements with one or more pharmacies to ensure that residents receive ordered medications on a timely basis.⁵³

A drug, whether prescribed on a routine, emergency, or as needed basis, must be provided in a timely manner. This requirement is not met if the late administration of a prescribed drug causes the resident discomfort or endangers his or her health and safety.⁵⁴ Doses shall be administered within one hour of the prescribed time unless otherwise indicated by the prescriber.⁵⁵

Unnecessary Drugs: Over-prescribing medications is a dangerous but common problem in nursing homes. Federal law addresses this problem by prohibiting nursing homes from using unnecessary drugs. An unnecessary drug is any drug given: (1) in excessive dose; (2) for an excessive period of time; (3) without adequate monitoring; (4) without adequate justification; or (5) in the presence of adverse consequences which indicate the dose should be reduced or discontinued.⁵⁶

Restricted Drugs: Federal regulations place special restrictions on the use of certain drugs. Sedatives, tranquilizers and similar drugs can only be used if the medical need is clearly documented.⁵⁷ Federal guidelines discourage nursing homes from using a detailed list of drugs that have a high potential for severe adverse outcomes when used to treat older persons.⁵⁸

Residents cannot be given antipsychotic drugs unless they are necessary to treat a mental illness that has been diagnosed and documented in the resident's clinical record.⁵⁹ If antipsychotic drugs are used, the nursing home must try to discontinue them by using behavioral interventions and gradual dose reductions, unless clinically contraindicated.⁶⁰

Drug use to treat behavior symptoms is highly restricted. Except in an emergency, it is generally illegal to chemically restrain a resident, which means to control a resident's behavior through drug use when other forms of care and treatment would be more appropriate.⁶¹ Nursing homes cannot sedate residents to cover-up behavioral symptoms caused by: (1) environmental conditions such as excessive heat, noise, and

50. Title 22 CCR §72523(b).

51. Title 22 CCR §72527(a)(4), 42 CFR §483.10(b)(4).

52. California Health and Safety Code §1320, Title 22 CCR §72527(a)(22).

53. Title 22 CCR §§72353 - 72355, 42 CFR §483.60.

54. 42 CFR §483.60, Surveyor's Guideline to 42 CFR §483.60, Appendix PP to CMS State Operation Manual, See also Title 22 CCR §72355.

55. Title 22 CCR §72313(a)(6).

56. 42 CFR §483.25(l).

57. Surveyor's Guideline to 42 CFR §483.25(l), Appendix PP to CMS State Operation Manual.

58. Surveyor's Guideline to 42 CFR §483.25(l), Appendix PP to CMS State Operation Manual.

59. 42 CFR §483.25(l)(2)(i).

60. 42 CFR §483.25(l)(2)(ii).

61. 42 USC §1396r(c)(1)(A)(ii), 42 CFR §483.13(a), Title 22 CCR §72527(a)(23).

overcrowding; (2) psychosocial problems such as abuse, taunting, or ignoring a resident's customary routine; or (3) treatable medical conditions such as heart disease or diabetes.⁶²

See CANHR's Fact Sheet, Restraint Free Care and Toxic Medicine guide for additional information on nursing home residents' rights to be protected from chemical and physical restraints.

Who Can Administer: Generally, medications must be administered by licensed nurses or medical personnel.⁶³ Unlicensed staff may administer certain laxatives, non-prescription lotions, medicinal shampoos and baths, subject to specific training, demonstrated competence and direct supervision by licensed nursing or medical personnel.⁶⁴ The person who administers the drug or treatment must record the date, time, and dosage in the resident's individual medication record.⁶⁵

Medication Errors: Nursing homes must keep medication error rates under 5 percent and must ensure that residents are free of any significant medication errors.⁶⁶ A medication error is a discrepancy between the facility's actions and either physician's orders, manufacturer's specifications, or accepted professional standards.⁶⁷ A medication error is considered significant when it causes the resident discomfort or jeopardizes his or her health and safety.⁶⁸

Ban on Sharing: It is illegal to give a medication to someone other than the resident for whom it was prescribed.⁶⁹

Quality Control: Each nursing home is required to obtain services from a licensed pharmacist to assess its medication system and to review the drug regimen of each resident on a monthly basis.⁷⁰ The pharmacist is required to report any irregularities to the resident's attending physician, the administrator and director of nursing, who must act on the reports.⁷¹

Personal Care

Nursing homes must give residents necessary assistance with bathing, dressing, eating and other personal needs.⁷² Unless it is medically unavoidable, the nursing home must ensure that residents' abilities to carry out activities of daily living do not decline.⁷³ Activities of daily living include bathing, dressing, grooming, eating, walking, communicating, using the toilet, and transferring to or from a bed or chair.⁷⁴

Many standards address personal care requirements. For example, nursing homes must:

- Provide care to maintain clean, dry skin;⁷⁵
- Change soiled linens, clothing and other items so that residents' skin is free from urine and feces;⁷⁶
- Provide needed personal care services including bathing, shampooing and grooming of hair, oral hygiene, shaving or beard trimming, and cleaning and cutting of fingernails and toenails;⁷⁷

62. Surveyor's Guideline to 42 CFR §483.25(l), Appendix PP to CMS State Operation Manual.

63. Title 22 CCR §72313(a)(5).

64. Title 22 CCR §72313(a)(5)(B).

65. Title 22 CCR §72313(c).

66. 42 CFR §483.25(m).

67. Surveyor's Guideline to 42 CFR §483.25(m), Appendix PP to CMS State Operation Manual.

68. Surveyor's Guideline to 42 CFR §483.25(m), Appendix PP to CMS State Operation Manual.

69. Title 22 CCR §72313(b).

70. 42 CFR §483.60(b)&(c), Title 22 CCR §72375.

71. 42 CFR §483.60(c)(2), Title 22 CCR §72375.

72. 42 CFR 483.25(a)(3), Title 22 CCR §72315(d).

73. 42 CFR 483.25(a).

74. 42 CFR 483.25(a).

75. Title 22 CCR §72315(f)(5).

76. Title 22 CCR §72315(f)(6).

- Ensure that residents are free of offensive odors;⁷⁸
- Answer call signals promptly;⁷⁹
- Ensure privacy during treatments and personal care.⁸⁰

Physician Services

Each resident's care must be supervised by a physician selected by the resident or the resident's representative.⁸¹ A facility may not place barriers in the way of residents choosing their own physicians. For example, if a resident does not have a physician, or if the resident's physician becomes unable or unwilling to continue providing care to the resident, the facility must assist the resident in exercising his or her choice in finding another physician.⁸²

Physicians generally must see and evaluate residents at least every 30 days and more often if needed.⁸³ Face to face contact with residents is required, as is review of the resident's total program of care during required visits.⁸⁴ Total program of care means all care the facility provides, including medical services, medication management, therapy, nursing care, nutritional interventions, social work and activity services.⁸⁵

Attending physicians have a critical role in nursing home care. In theory, doctors have tremendous power over nursing home care because they must authorize virtually all aspects of residents' care and treatment.⁸⁶ A resident's attending physician is expected to:

- Participate in the resident's assessment and care planning;
- Monitor changes in the resident's medical status;
- Review the resident's total program of care at each required visit;
- Prescribe new therapy and treatments as needed;
- Order a resident's transfer to the hospital;
- Supervise nurse practitioners or physician assistants if follow-up visits are delegated to them;
- Provide consultation or treatment when called by the facility; and
- Record the resident's progress and problems in maintaining or improving their health status.⁸⁷

Nursing homes must carry out doctors' orders and arrange all necessary diagnostic and therapeutic services recommended by the resident's physician, podiatrist, dentist or clinical psychologist.⁸⁸ If the services cannot be brought into the facility, the nursing home must help the resident arrange transportation to and from the service location.⁸⁹

Nursing homes are required to notify the resident's attending physician promptly of: (1) a sudden or marked adverse change in signs, symptoms or behavior; (2) an unusual occurrence involving the resident; (3) a change in weight of five pounds or more within a 30 day period; (4) an untoward response to a medication or treatment; (5) a life threatening medication or treatment error; or (6) a threat to the resident's health or safety

77. Title 22 CCR §72315(d).

78. Title 22 CCR §72315(d).

79. Title 22 CCR §72315(m).

80. Title 22 CCR §72315(l).

81. 42 CFR §483.40, 42 CFR §483.10(d)(1), Title 22 CCR §72303 & 72307.

82. Surveyor's Guideline to 42 CFR §483.10(d)(1), Appendix PP to CMS State Operation Manual.

83. 42 CFR §483.40(c), Title 22 CCR §72307.

84. 42 CFR §483.40, Surveyor's Guideline to 42 CFR §483.40, Appendix PP to CMS State Operation Manual.

85. 42 CFR §483.40, Surveyor's Guideline to 42 CFR §483.40, Appendix PP to CMS State Operation Manual.

86. 42 CFR §483.20, 42 CFR §483.20(a), 42 CFR §483.20(k)(2), 42 CFR §483.35(e), 42 CFR §483.45(b), Title 22 CCR §72301- 72307.

87. Surveyor's Guideline to 42 CFR §483.40, Appendix PP to CMS State Operation Manual.

88. Title 22 CCR §72301(d)&(f).

89. Title 22 CCR §72301(d).

caused by the facility's inability to timely obtain or administer prescribed drugs, equipment, supplies or services.⁹⁰

Nursing homes must have substitute doctors available to provide supervision and emergency medical care whenever residents' physicians are unavailable.⁹¹

Pressure Sores

People who lie or sit in one position for long periods are at risk of developing pressure sores, also known as bedsores or decubitus ulcers. They occur when pressure on the skin shuts off blood vessels, depriving skin tissue of oxygen and nutrients. If proper care is not given, large, deep sores can develop, sometimes exposing the muscle or bone below the skin. Untreated pressure sores can lead to infection, severe pain and death.

Generally, pressure sores can be prevented with proper care.⁹² Nursing homes must make sure that residents entering the facility do not develop pressure sores and that residents who have them are given treatment to promote healing and prevent infection.⁹³

To prevent pressure sores, nursing homes must keep a resident's skin clean and dry, maintain good nutrition and keep pressure off of vulnerable parts of the body.⁹⁴ Pressure is relieved by changing the resident's position as often as necessary and using pressure relieving devices, such as pads and special mattresses.⁹⁵

A nursing home must notify the resident's physician immediately if he or she develops a pressure sore and must follow the doctor's treatment orders to clean and dress the wound.⁹⁶ It is critical to relieve pressure from the wound and ensure that the resident receives proper nutrition and hydration. If the treatment is not effective, the nursing home must again notify the resident's physician.⁹⁷

Preventing Accidents

Falls and accidents are a serious concern for nursing home residents. Approximately 50 percent of residents fall annually and 10 percent of these falls result in serious injury, especially hip fractures.⁹⁸

Historically, many nursing homes have physically restrained residents to prevent or limit falls. However, restraints are unsafe and cause more injuries than they prevent. See CANHR's Fact Sheet, Restraint Free Care, for information on laws restricting nursing home use of restraints.

Nursing homes must examine risk factors that cause falls and accidents and take these steps to limit the risks:

- Keep the resident environment as free of accident hazards as possible;
- Give each resident adequate supervision to prevent accidents; and
- Use assistive devices that help improve resident safety.⁹⁹

If a resident has fallen or been injured, or is considered at risk, his or her care plan must individually address this concern and identify steps that will be taken to improve safety.

Special Services

Nursing homes must ensure that residents receive proper treatment and care for the following special services: (1) Injections; (2) IV fluids; (3) colostomy, ureterostomy and ileostomy care; (4) tracheostomy

90. Title 22 CCR §72311(a)(3).

91. 42 CFR §483.40, Title 22 CCR §72301(g).

92. CMS' Resident Assessment Instrument Version 2.0 Manual, Appendix C, §16 (Pressure Ulcers), Page C-84, revised December 2002.

93. 42 CFR §483.25(c).

94. Title 22 CCR §72315(f).

95. Title 22 CCR §72315(f).

96. Title 22 CCR §72315(f)(7).

97. Title 22 CCR §72315(f)(7).

98. CMS' Resident Assessment Instrument Version 2.0 Manual, Appendix C, §11 (Falls), Page C-59, revised December 2002.

99. 42 CFR §483.25(h).

care; (5) tracheal suctioning; (6) respiratory care; (7) foot care; and (8) prostheses.¹⁰⁰ If residents need these services, federal law requires that they be provided, regardless of whether they are covered by Medicare or Medi-Cal.¹⁰¹ For services not covered, a nursing home is required to assist the resident in securing any available resources to obtain the needed services.

Therapies, Restorative Care and Range of Motion

Therapy Services: Nursing home residents often need specialized rehabilitative services to restore lost abilities caused by strokes, broken bones and other conditions. The nursing home must provide needed therapy services, no matter who is paying for the nursing home stay.¹⁰² Federal law requires that a resident receive the therapy needed to reach his or her highest practicable level of functioning.¹⁰³ The nursing home must provide or arrange needed therapy services such as, but not limited to, physical therapy, occupational therapy, speech-language pathology and mental health rehabilitative services.¹⁰⁴

Formal therapy services require a doctor's order¹⁰⁵ and an evaluation by a licensed therapist. Once the assessment for therapy services is completed, a care plan must be developed, followed and monitored by a licensed professional.¹⁰⁶

Subject to various conditions and limits, Medicare pays for skilled rehabilitation services received in a skilled nursing facility. Coverage for these services is sometimes improperly cut short by facility decisions that a resident is not improving or has reached a plateau. This is not a legal reason for stopping therapy services. Medicare rules say that improvement is not necessary - therapy services can be covered if needed to prevent further deterioration or preserve current capabilities.¹⁰⁷

It is common, but illegal, for nursing homes to halt formal therapy services when a resident exhausts Medicare skilled nursing facility coverage. Specialized rehabilitative services are a covered Medi-Cal service and must be provided to residents who need them without charge.¹⁰⁸

Most therapy services do not last more than a few weeks or months. They stop when the doctor discontinues medical orders, therapy goals are met, treatment proves ineffective or the resident's needs can be met by regular nursing staff members. Therapists are expected to teach residents and the nursing home staff how to carry out routine exercises that can be safely completed without their direct supervision.

Restorative Care: As formal therapy services are ending, the therapist should set up a care plan that continues needed exercises and other services. For example, a resident recovering from a fractured hip might need help walking daily until she regains strength in her legs and is steady on her feet. This type of care, which is provided by the facility's nursing staff, is often called restorative care. It should continue as long as needed without any extra fee if Medicare or Medi-Cal is paying for the resident's nursing home care.

Range of Motion: Many nursing home residents need routine care to keep the ability to move their hands, arms, legs and feet. Without proper care, residents often lose some ability to move their joints (range of motion) or develop contractures - a freezing of the joint in a contracted position.

Nursing homes must ensure that residents do not lose range of motion unless it is unavoidable and must give appropriate treatment and services to residents who have limited range of motion.¹⁰⁹ Preventive care may include exercise of the joints performed by the resident, by the staff, or by the resident with assistance from

100. 42 CFR §483.25(k).

101. Surveyor's Guideline to 42 CFR §483.25(k), Appendix PP to CMS State Operation Manual.

102. 42 USC §1396r(c)(4)(A).

103. 42 USC §1395r(b)(4)(A)(i).

104. 42 CFR §483.45(a).

105. 42 CFR §483.45(b).

106. Surveyor's Guideline to 42 CFR §483.45(b), Appendix PP to CMS State Operation Manual.

107. 42 CFR §409.32.

108. Surveyor's Guideline to 42 CFR §483.45(a), Appendix PP to CMS State Operation Manual.

109. 42 CFR §483.25(e).

the staff. Range of motion exercises should never be used as a substitute for residents who need specialized therapies from licensed therapists.

Vision, Dental and Hearing Care

A resident's care plan must comprehensively address his or her care needs, including needed dental, vision and hearing services.

Nursing homes must assist residents in obtaining routine and emergency dental care.¹¹⁰ Routine care means an annual exam.¹¹¹ An emergency involves an episode of pain or other dental problem that requires immediate attention.¹¹²

Nursing homes can arrange services by hiring a dentist or by having an agreement with a dentist to treat residents.¹¹³ If a resident's dentures are lost or damaged, the nursing home is required to make a prompt referral to a dentist and to aggressively work at replacing the dentures.¹¹⁴

Facilities must also arrange treatment that maintains residents' abilities to see and hear.¹¹⁵ If a resident needs hearing or vision care or assistive devices, the nursing home should make necessary appointments and arrange transportation if services are delivered away from the facility.¹¹⁶ Assistive devices means glasses, contact lenses, magnifying glasses and hearing aids.¹¹⁷ The facility should help residents and their families locate and utilize any available community resources or payment programs, including Medicare and Medi-Cal.¹¹⁸

Residents may have to pay for dental, vision and hearing services they receive unless they have Medi-Cal or other health insurance that covers these services. Medi-Cal does cover this care with some limits.

If a resident on Medi-Cal needs dental, vision or hearing services not covered by Medi-Cal (or other uncovered medical expenses), he or she can deduct the costs from the monthly share of cost set by Medi-Cal.¹¹⁹ A current physician's prescription is necessary and must be put in the resident's record at the facility. This prescription must be part of the physician's plan of care. After a copy of the prescription and the bill is presented to the facility, it will deduct the cost from that month's share of cost and bill the resident for the remaining share of cost.

110. 42 CFR §483.55.

111. Surveyor's Guideline to 42 CFR §483.55, Appendix PP to CMS State Operation Manual.

112. Surveyor's Guideline to 42 CFR §483.55, Appendix PP to CMS State Operation Manual.

113. 42 CFR §483.55, Surveyor's Guideline to 42 CFR §483.55, Appendix PP to CMS State Operation Manual.

114. 42 CFR §483.55, Surveyor's Guideline to 42 CFR §483.55, Appendix PP to CMS State Operation Manual.

115. 42 CFR §483.25(b).

116. 42 CFR §483.25(b), Surveyor's Guideline to 42 CFR §483.25(b), Appendix PP to CMS State Operation Manual.

117. Surveyor's Guideline to 42 CFR §483.25(b), Appendix PP to CMS State Operation Manual.

118. Surveyor's Guideline to 42 CFR §483.25(b), Appendix PP to CMS State Operation Manual.

119. Johnson v Rank (ND Cal 1989) 110 FRD 99; ACWD Letter No. 89-54 (July 24, 1989).