

Long Term Care Regulatory Updates: What you need to know to pass survey

Anna de Jesus, MBA, RDN 1/19/23 - Q&A

CDM and RD Qualifications:

1. If there is a manager who has a high school diploma and is enrolled in an approved food service management course, does that meet a qualified manager and is it in that manager's scope of practice to complete MDS, CAAs, and care plans?
 - (i) The director of food and nutrition services must at a minimum meet one of the following qualifications—
 - (A) A certified dietary manager; or
 - (B) A certified food service manager; or
 - (C) Has similar national certification for food service management and safety from a national certifying body; or
 - (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; or
 - (E) Has 2 or more years of experience in the position of director of food and nutrition services in a nursing facility setting and has completed a course of study in food safety and management, by no later than October 1, 2023, that includes topics integral to managing dietary operations including, but not limited to, foodborne illness, sanitation procedures, and food purchasing/receiving; and

The MDS, CAAs and Care plans are signed by a licensed nurse, so if the manager is trained and competencies reviewed, then they can do this.

2. Does a RD eligible dietitian meet the qualified staff requirement?

§483.60(a)(1) A qualified dietitian or other clinically qualified nutrition professional either full-time, part-time, or on a consultant basis. A qualified dietitian or other clinically qualified nutrition professional is one who—

- (i) Holds a bachelor's or higher degree granted by a regionally accredited college or university in the United States (or an equivalent foreign degree) with completion of the academic requirements of a program in nutrition or dietetics accredited by an appropriate national accreditation organization recognized for this purpose.
- (ii) Has completed at least 900 hours of supervised dietetics practice under the supervision of a registered dietitian or nutrition professional.
- (iii) Is licensed or certified as a dietitian or nutrition professional by the State in which the services are performed. In a State that does not provide for licensure or certification, the individual will be deemed to have met this requirement if he or she is recognized as a "registered dietitian" by the

Commission on Dietetic Registration or its successor organization, or meets the requirements of paragraphs (a)(1)(i) and (ii) of this section.

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3. How do you avoid receiving a F803 tag for not following menu with the current supply chain issues we are dealing with currently? For example: Some of the Director of Food Services that I oversee do not know until less than 24 hours prior to a meal that ingredients are not available when receiving an order. What would be a good way to acknowledge the issue at hand while avoiding a F803 tag?

Post the changes on the menu that is visible to resident, in dining areas, on the food carts and in the nursing units.

Hairnets/beard restraints:

4. How long does your beard have to be before a beard restraint is needed? What if a staff member's beard is short, say the same length as eyebrows, would you say they need a beard restraint?

There is not a hard and fast rule about length of beard. Personally, I would have them wear a restraint even if it is the length of eyebrows.

5. Is wearing a hat okay or does it have to be a hair net?
Hats are OK if it restrains the hair. Even if the regulation states hairnet, these terms are used interchangeably.

6. Under the surveyor guidance for hair restraints, do staff need to wear hairnets during a pre-meal service meeting in the kitchen if the meeting isn't being conducted near food prep areas?

See below from the Food Code:

Hair Restraints

2-402.11 Effectiveness.

(A) Except as provided in ¶ (B) of this section, FOOD EMPLOYEES shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting **exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.**

(B) *This section does not apply to FOOD EMPLOYEES such as counter staff who only serve BEVERAGES and wrapped or PACKAGED FOODS, hostesses, and wait staff if they present a minimal RISK of contaminating exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.*

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7. To clarify, the person serving food from the steamtable in the dining room, do they need to wear a hair restraint?
Yes

Gloves:

8. Often residents need containers to be opened or foods cut in the dining room or in rooms, do they need to wear gloves?
Not unless hands physically touch the food.
9. Pertaining to serving, if the staff is wearing gloves and grabbing rolls or buns with their gloved hands during serving, are they able to touch plates, tongs, etc. without changing gloves?
Yes, as long as the plates are clean, so no cross-contamination occurs.
A practice we do is the ONE-GLOVE approach. The gloved hand handles the bun while the ungloved hand handles utensils, plates, etc. Also, we ensure our buns are already in pans for ease of handling, as opposed to taking them out of plastic bags.
9. Is using hand sanitizer sufficient when entering the dining room to pass out trays?
Hand wash first, then you may sanitize your hands from 1 tray to the next. Always start with handwashing the first time.
10. If family chooses to come in and feed a someone, do they need gloves?
It is best practice to educate them on food safety. This includes washing hands prior to touching food or feeding someone.

Dishmachine:

11. The high temp dish machine has a final rinse of 180 or higher. Have had several surveys recently where surveyors are looking at the high temp machines logged at over 194 degrees. At this temperature, the water turns to steam and may not cover all the dishes. Must have been a focus area of training for surveyors is this particular region.

Food Code: The surveyors were right - they referenced the Food Code:

4-501.112 Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

(A) Except as specified in ¶ (B) of this section, in a mechanical operation, the temperature of the fresh hot water SANITIZING rinse as it enters the manifold may not be more than 90°C (194°F), or less than:^{Pf}

(1) For a stationary rack, single temperature machine, 74°C (165°F);^{Pf} or

(2) For all other machines, 82°C (180°F).^{Pf}

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12. Why would you state the CMS regulations are based on the 2017 food code and not the current food code? According to the CMS 20055 kitchen pathway updated 10/22 it stated to "Refer to the current FDA Food Code as needed". Even if it may be based on the 2017 food code the regulations will always be based on the current food code and this will now be 2022 food code.

See various references to the 2017 Food code in Appendix PP. Regardless, the reality is, the Food Code is used as a reference by surveyors. Check your state rules to see if they refer to the 2017 or 2022 Food code as a guide.

Time/Temperature:

13. When would foods or liquids in thermal containers that keep the foods or liquids very hot/cold for a long period of time need to be disposed?

If temps stay below 41 or above 135°F for cold and hot holding, and food is not compromised in any way, it does not need to be disposed of from a Food SAFETY standpoint. From a food quality perspective, however, this may need to be discarded.

14. Do we need to date our pantry items when they arrive or when they are opened?

Per Kitchen Observation form CMS-20055 – there is no mention of dating food in the pantry – see below. That said, it is best practice to do date our opened items so we know how long they have been in inventory.

Food Storage

- ☐ Frozen foods are thawing at the correct temperature.
- ☐ Foods in the refrigerator/freezer are covered, dated, and shelved to allow circulation.

15. How long can food be held on a steamtable prior to service?

The prior Kitchen Observation form stated 30 minutes. Neither F tag 804 nor the current Kitchen Observation form includes that. The key is no loss of nutrients and food quality not compromised. See F tag 804 below -

- Is food prepared in a way to preserve vitamins? Method of storage and preparation should cause minimum loss of nutrients. For example, foods are prepared as directed or not held at hot temperatures for hours prior to meal service because prolonged hot temperatures can result in a loss of vitamins.

16. How many temps do you need if you serve in a 1 hour time period? If you have trays that go to the residents' rooms do you have to temp food in the room?

There is no regulation that states how many times temps are to be taken. The key is "food is safe and palatable". That said, we take temps regularly as part of our Quality Assurance (QA) to ensure proper food temps. We take temps in residents' rooms as part of our QA to ensure palatability.

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Miscellaneous:

17. When trays are removed from the mobile cart to deliver to the residents' rooms, do all items have to be covered including beverages and utensils?
No, not unless walking long distances.
18. Are therapy dogs allowed in the dining room?
Not during meal service.
19. Do silverware/ plates need to be stored in an enclosed space? Or does silverware need to be covered when being stored?
Stored so it is protected from contamination.
20. Are you permitted to put bread/rolls, etc. in pureed vegetables if according to recipe?
If it is part of the recipe and accounted for nutritionally, yes.
21. Do leftovers require day one date and discard date?
Food Code states discard date but some facilities use an open and use by date.
22. What are the rules about serving greens grown in a garden on the community property?
These are allowed. Follow proper procedures to avoid contamination.

F812

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§483.60(i) Food safety requirements.
The facility must –

§483.60(i)(1) – Procure food from sources approved or considered satisfactory by federal, state or local authorities.

- (i) This may include food items obtained directly from local producers, subject to applicable State and local laws or regulations.**
- (ii) This provision does not prohibit or prevent facilities from using produce grown in facility gardens, subject to compliance with applicable safe growing and food-handling practices.**
- (iii) This provision does not preclude residents from consuming foods not procured by the facility.**

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