



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-08-09

**DATE:** January 11, 2008

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** **Nursing Homes:** Surveying Facilities that Receive Food Prepared by Off-Site Kitchens

**Memorandum Summary**

When a nursing home (facility) receives food services from an off-site location, the surveyor must assess whether the facility is compliant with 42 C.F.R. § 483.35(i) which states: “a facility must procure food from sources approved or considered satisfactory by Federal, State, or local authorities.”

The purpose of this memorandum is to instruct surveyors on the appropriate action when surveying nursing homes that procure food prepared by sources external to the facility for the purpose of consumption by residents.

The nursing home regulations at 42 C.F.R. Part 483 subpart B require nursing homes to ensure the safe procurement of food for the purpose of consumption by residents. The food sources must be approved or considered satisfactory by Federal, State, or local authorities. The regulation further states that the facility must store, prepare, distribute, and serve food under sanitary conditions.

**Determining Compliance**

It is not always necessary for surveyors to routinely survey off-site kitchens (any kitchen that is not operated by the “facility”) in cases where the food preparation entity is inspected by other Federal, State, or local authorities.

The instructions below provide direction for surveyors when surveying nursing homes that receive food from external sources (off-site kitchens) for residents' consumption.

Surveyor(s) should determine if there are any:

- Food safety and/or sanitary condition concerns related to when, where, and how the food received for residents' consumption is prepared, packaged and delivered;
- Food safety and/or sanitary condition concerns related to when, where, and how the food is stored and served once it arrives at the facility; and
- On-site food safety and/or sanitary condition concerns such as but not limited to food-borne illness.

If the surveyor(s) determine that a facility has food safety concerns warranting further evaluation, the surveyor(s) have the authority to inspect (survey) the food supply source (last point of preparation off-site kitchen).

Even if the surveyor(s) determine that a facility has no food safety concerns, if the off-site kitchens are not inspected by other Federal, State or locally authorized food safety entities, or if the inspection results are not satisfactory (did not meet standards) then the surveyor(s) should cite the facility at 483.35(i)(1).

If the off-site kitchen(s) are satisfactorily inspected (meeting standards) by other Federal, State or local authority and the surveyor(s) find no food-borne illness or other related issues at the primary survey location (the facility), the surveyor(s) may accept the results of the other Federal, State or locally approved inspection. The surveyor(s) must obtain documentation of the authorized inspection to satisfy compliance with the regulatory requirement related to the kitchen inspection.

Even when the above criteria are met and the surveyor(s) accept the authoritative documentation of a kitchen inspection, once the food prepared off-site is brought to the facility, the surveyor(s) should proceed to investigate all on-site areas of the survey related to §483.35(i).

**Note:** See section §483.35(i) and the State Operations Manual for further State Agency (SA) and the Centers for Medicare & Medicaid Services (CMS) Regional Office (RO) guidance when determining compliance with this regulation. The new guidance forthcoming for F tag 371(projected 2008) will include the above direction for surveying facilities serviced by off-site kitchens.

For questions regarding this memorandum, please contact Debra Swinton-Spears at (410)-786-7506 or e-mail at [debra.swinton-spears@cms.hhs.gov](mailto:debra.swinton-spears@cms.hhs.gov).

**Effective Date:** Immediately. Please ensure that all appropriate staff are fully informed within 30 days of the date of this memorandum, and disseminate the information to affected providers.

**Training:** The information contained in this announcement should be shared with all nursing home surveyors and supervisors.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management