

rebate regulation for the Medicaid drug rebate program. This document corrects the effective date.

EFFECTIVE DATE: The effective date of the August 29, 2003 final rule (68 FR 51912) amending 42 CFR part 447 is corrected from October 1, 2003 to January 1, 2004.

FOR FURTHER INFORMATION CONTACT: Marge Watchorn, (410) 786-4361.

SUPPLEMENTARY INFORMATION:

I. Background

On August 29, 2003, we published in the **Federal Register** a final rule with comment period entitled, "Medicaid Program; Time Limitation on Price Recalculations and Recordkeeping Requirements Under the Drug Rebate Program." The rule establishes requirements for recordkeeping and time limits on price recalculations. The effective date of these requirements as stated in the August 2003 rule is October 1, 2003.

The Office of Management and Budget (OMB) declared that the August 2003 final rule is a major rule. Thus, we should have given January 1, 2004 as the effective date in accordance with 5 U.S.C. 801(a)(4). However, we erroneously incorporated an incorrect effective date of October 1, 2003. We have identified and corrected that error in the "Correction of Errors" section below.

II. Correction of Errors

In FR Doc. 03-21548 of August 29, 2003 (68 FR 51917), make the following correction:

- On page 51912, in column one, in the "Dates" section, remove "October 1, 2003" and replace it with "January 1, 2004."

III. Waiver of Notice of Proposed Rulemaking and Delay of the Effective Date

We ordinarily publish a general notice of proposed rulemaking in the **Federal Register** and invite prior public comment on a proposed rule. Final rules generally have a 30-day or longer prospective effective date. However, this document merely provides a correction to the effective date of the final rule with comment published on August 29, 2003. This correction is being made based on OMB's decision that the August 2003 final rule is a major rule. Thus, we should have given January 1, 2004 as the effective date in accordance with 5 U.S.C. 801(a)(4). However, we erroneously incorporated an incorrect effective date of October 1, 2003. It would be impracticable, unnecessary and contrary to the public interest to publish a proposed rule and solicit

comments since this document is technical in nature and does not impose new limits on the substantive rights of the industry or the public. Similarly, given the imminence of the effective date, it would serve no useful purpose to further delay the effective date of this technical correction. Therefore, to the extent that 5 U.S.C. 553 applies to this action, we find good cause to waive notice and comment procedures and our usual delay in the effective date.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: September 24, 2003.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. 03-24550 Filed 9-25-03; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 483 and 488

[CMS-2131-F]

RIN 0938-AL04

Medicare and Medicaid Programs; Requirements for Paid Feeding Assistants in Long Term Care Facilities

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule permits a long term care facility to use paid feeding assistants to supplement the services of certified nurse aides under certain conditions. States must approve training programs for feeding assistants using Federal requirements as minimum standards. Feeding assistants must successfully complete a State-approved training program and work under the supervision of a registered nurse or licensed practical nurse. The intent is to provide more residents with help in eating and drinking and reduce the incidence of unplanned weight loss and dehydration.

EFFECTIVE DATE: These regulations are effective on October 27, 2003.

FOR FURTHER INFORMATION CONTACT: Nola Petrovich, (410) 786-4671.

SUPPLEMENTARY INFORMATION: *Copies:* This **Federal Register** document is also available from the **Federal Register** online database through GPO access, a service of the U.S. Government Printing Office. The Web site address is <http://www.access.gpo.gov/nara/index.html>.

I. Background

Legislation

Sections 1819(a) through (e) and 1919(a) through (e) of the Social Security Act (the Act) set forth the requirements that long term care facilities must meet to participate in the Medicare and Medicaid programs, respectively. Sections 1819(f)(2) and 1919(f)(2) of the Act contain requirements for nurse aide training and competency evaluation programs (NATCEP). Sections 1819(g) and 1919(g) of the Act contain the criteria that we use to assess a facility's compliance with the requirements. These statutory provisions were mandated by the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) (Pub. L. 100-203, enacted December 22, 1987). The requirements for long term care facilities are codified at 42 CFR part 483, subpart B; the nurse aide training and competency evaluation program requirements are codified at 42 CFR part 483, subpart D; and the survey, certification and enforcement procedures are codified at 42 CFR part 488, subparts E and F.

Sections 1819(b)(5)(F) and 1919(b)(5)(F) of the Act and regulations at § 483.75(e) define a nurse aide as any individual furnishing nursing or nursing-related services to residents in a facility, who is not a licensed health professional, a registered dietitian, or someone who volunteers to provide services without pay. Sections 1819(f)(2) and 1919(f)(2) of the Act set forth the requirements for approval of a nurse aide training and competency evaluation program, but do not define "nursing" or "nursing related" skills. Section 483.152 of the regulations specifies nurse aide training requirements. These include, for example, basic nursing skills, personal care skills, communication and interpersonal skills, infection control, safety and emergency procedures, mental health and social service needs, residents' rights, care of cognitively impaired residents, and basic restorative services.

On March 29, 2002, we published in the **Federal Register** a proposed rule, "Requirements for Paid Feeding Assistants in Long Term Care Facilities" (67 FR 15149), that offered long-term care facilities the option to use paid feeding assistants, if consistent with State law.

Current Program Experience

Currently, there is no provision in the regulations for the use of single-task workers, such as paid feeding assistants, in nursing homes. To ensure the safety