

unable or unwilling to go to a congregate dining area receive needed feeding assistance in their rooms. We are confident that the nurse in charge, using his or her professional judgment in assessing residents who are appropriate for feeding assistance, will be able to select residents who can safely be fed in their own rooms.

Comment: An organization representing nursing home employees noted that nursing staff is already overworked and supervising feeding assistants would only add to the burden. Another commenter indicated that the proposed supervision requirement would further burden RNs and LPNs because they would have to stay in the dining room during mealtimes and this would limit their availability elsewhere in the facility.

Response: Adequate supervisory staff is just one factor that a facility needs to consider when deciding whether or not to use feeding assistants. If a facility chooses to use paid feeding assistants, it would be the facility's responsibility to ensure that it has sufficient RNs and LPNs available to adequately supervise feeding assistants without adding undue burden on the staff. When using feeding assistants, there will be a need for a facility to balance the increase in staff available to meet resident needs with the increased need to supervise these assistants.

Training

State-Approved Training Course

Comment: Several providers asked whether facilities would be able to hire paid feeding assistants if the State does not approve a training program for feeding assistants. Many providers supported giving facilities maximum flexibility to implement the proposal without lengthy state approval requirements. One commenter suggested that we require all states to mandate feeding assistant programs in all facilities.

Other commenters believed that, before facilities may opt to use feeding assistants, States should be able to decide whether implementing feeding assistant programs is in the best interest of the State or consistent with State law.

Several providers, provider organizations, and States asked that we remove the requirement that a training course for feeding assistants be State approved, citing potential burden on States, cost, and delays in implementing feeding programs. One State with a large number of facilities and a shortage of resources was concerned about the potential burden of approving a large number of feeding programs.

Commenters, instead, suggested that we require that an individual complete a training course that meets the requirements of § 483.160. In this case, the facility would maintain documentation of compliance with the requirements and surveyors would review the training records at annual surveys.

Many states and providers asked for clarification on our expectations in terms of state approval. They wondered whether other entities, such as community colleges, would be permitted to offer the training. One commenter noted that travel to community colleges and cost would discourage individuals from taking the training. There was also a question about the frequency with which a state would need to review or reapprove a feeding assistant program. Another commenter suggested that we offer more specific guidance to states to assist them in establishing criteria for training programs and others suggested using established models from Wisconsin and North Dakota.

Response: We have chosen to retain the requirement that States approve training programs for feeding assistants. We believe that this will give States the necessary control and flexibility to structure approval processes for training programs to fit the needs of each State. States that have large numbers of facilities and resources that are stretched to the limit may want to minimize any burden associated with State approval of training programs, while States with fewer facilities may structure approval in a very different way.

However, States also have the flexibility not to implement a program for approval of feeding assistant training programs. If a State does not implement an approval program, the result is that facilities in that State will not be able to hire any paid feeding assistants.

Training Content

Comment: We received a variety of comments on training, including requests for additional requirements, removal of requirements, and clarifying changes. Many commenters asked that we provide more specificity on training requirements and establish a minimum number of hours of training. Suggestions for hours of training ranged from 5 to 75.

Response: We believe that being overly prescriptive on the content of training is unnecessary, would reduce flexibility to offer these training programs, and would unnecessarily limit the ability of States and providers to develop these programs within the

scope of their considerable knowledge. However, to ensure that training is not conducted in a superficial manner, we are revising § 483.160(a) to require that a training course for feeding assistants include, at a minimum, 8 hours of training.

Comment: A few commenters suggested that we specify in the text of the regulation that a feeding assistant must "successfully" complete the entire training course before he or she is qualified to work with residents in the facility.

Response: We agree with the commenters that successful completion of the training course is essential and are revising § 483.35(h)(2)(i) by adding the word "successful." We believe that it is reasonable to expect that a feeding assistant will successfully complete the training course before working directly with residents. This is a basic safety precaution to ensure that residents are protected. After completion of training, a facility may want to slowly ease a feeding assistant into the work by feeding a resident who needs minimal assistance, as North Dakota does.

Comment: Many commenters advocated requiring a competency test before feeding assistants are permitted to work with residents.

Response: We are not including a requirement for a competency test in the final rule. We believe that the instructor or supervisory nurse will be able to assess the competency of trained feeding assistants.

Comment: Several commenters objected to the inclusion of the Heimlich Maneuver in the training course and its use by feeding assistants. They were concerned that its use by a robust feeding assistant on a frail resident might result in rib fractures or other injuries. Commenters emphasized that only nursing staff should determine the need for, and administer, the Heimlich Maneuver. Instead, they suggested that the training course emphasize the need for feeding assistants to recognize symptoms that should be immediately reported to licensed supervisory staff for further action.

Response: The Heimlich Maneuver is an emergency procedure that is taught to the public, as well as medical personnel. It seems reasonable to retain this training requirement in view of the fact that nurse aides are trained to use this procedure and they may also be strong individuals. Proper training is essential and feeding assistants will receive the same training on the Heimlich Maneuver as nurse aides. Also, experienced RNs tell us that training in handling emergencies will