

Federal Paid Feeding Assistant: Waived Under 1135 Waiver - 5/11/20

MDH updated this memo consistent with 5/11/20 CMS revision to the CMS 1135 waiver related to Paid Feeding Assistants.

[CMS 1135 waiver \(PDF\)](#) dated 5/11/20 states:

Paid Feeding Assistants. (New since 4/30 Release) CMS is modifying the requirements at 42 CFR §§ 483.60(h)(1)(i) and 483.160(a) regarding required training of paid feeding assistants. Specifically, CMS is modifying the minimum timeframe requirements in these sections, which require this training to be a minimum of 8 hours. CMS is modifying to allow that the training can be a minimum of 1 hour in length. CMS is not waiving any other requirements under 42 CFR §483.60(h) related to paid feeding assistants or the required training content at 42 CFR §483.160(a)(1)-(8), which contains infection control training and other elements. Additionally, CMS is also not waiving or modifying the requirements at 42 CFR §483.60(h)(2)(i), which requires that a feeding assistant must work under the supervision of a registered nurse (RN) or licensed practical nurse (LPN).

Federal regulation for Long Term Care Facilities, 42 CFR §483.35 F811.

This is waived under CMS 1135 waiver. Under this waiver, a minimum of 1 hour of training for individuals working as Paid Feeding Assistants is allowed. The number “8” below that is bolded below is waived under the 5/11/20 1135 waiver. All other parts of the regulation are not waived.

42 CFR §483.160 - Requirements for training of paid feeding assistants.

(a) Minimum training course contents. A State-approved training course for paid feeding assistants must include, at a minimum, **8** hours of training in the following:

1. Feeding techniques.
2. Assistance with feeding and hydration.
3. Communication and interpersonal skills.
4. Appropriate responses to resident behavior.
5. Safety and emergency procedures, including the Heimlich maneuver.
6. Infection control.
7. Resident rights.
8. Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse.

(b) Maintenance of records. A facility must maintain a record of all individuals, used by the facility as feeding assistants, who have successfully completed the training course for paid feeding assistants.

Minnesota Statute: **144A.62 RESIDENT ATTENDANTS.**

Subdivision 1. **Assistance with eating and drinking.** (a) Upon federal approval, a nursing home may employ resident attendants to assist with the activities authorized under subdivision 2. The resident attendant will not be counted in the minimum staffing requirements under section 144A.04, subdivision 7.

(b) The commissioner shall submit by May 15, 2000, a request for a federal waiver necessary to implement this section.

Subd. 2. **Definition.** "Resident attendant" means an individual who assists residents in a nursing home with the activities of eating and drinking. A resident attendant does not include an individual who:

- (1) is a licensed health professional or a registered dietitian;
- (2) volunteers without monetary compensation; or
- (3) is a registered nursing assistant.

Subd. 3. **Requirements.** (a) A nursing home may not use on a full-time or other paid basis any individual as a resident attendant in the nursing home unless the individual:

- (1) has completed a training and competency evaluation program encompassing the tasks the individual provides;
- (2) is competent to provide feeding and hydration services; and
- (3) is under the supervision of the director of nursing.

(b) A nursing home may not use a current employee as a resident attendant unless the employee satisfies the requirements of paragraph (a) and volunteers to be used in that capacity.

Subd. 4. **Evaluation.** The training and competency evaluation program may be facility based. It must include, at a minimum, the training and competency standards for eating and drinking assistance contained in the nursing assistant training curriculum.

Subd. 5. **Criminal background check.** A person seeking employment as a resident attendant is subject to the criminal background check requirements.

Subd. 6. **Nonretaliation.** Employees shall not be subject to disciplinary action if they choose not to volunteer under this section.

Subd. 7. **Resident protections.** Resident attendants are subject to requirements for volunteer feeding assistants in Minnesota Rules, part 4658.0530.

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Subd. 8. **Exceptions.** A resident attendant may not be assigned to feed any resident who:

- (1) is at risk of choking while eating or drinking;
- (2) presents significant behavior management challenges while eating or drinking; or
- (3) Presents other risk factors that may require emergency intervention.

Minnesota Department of Health
Health Regulation Division
PO Box 64900
St. Paul, MN 55164-0900
www.health.state.mn.us

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