

§ 488.400

must report the findings in writing within 10 working days to—

- (1) The individual;
- (2) The current administrator of the facility in which the incident occurred; and
- (3) The administrator of the facility that currently employs the individual, if different than the facility in which the incident occurred;
- (4) The licensing authority for individuals used by the facility other than nurse aides, if applicable; and
- (5) The nurse aide registry for nurse aides. Only the State survey agency may report the findings to the nurse aide registry, and this must be done within 10 working days of the findings, in accordance with § 483.156(c) of this chapter. The State survey agency may not delegate this responsibility.

(g) *Contents and retention of report of finding to the nurse aide registry.* (1) The report of finding must include information in accordance with § 483.156(c) of this chapter.

(2) The survey agency must retain the information as specified in paragraph (g)(1) of this section, in accordance with the procedures specified in § 483.156(c) of this chapter.

(h) *Survey agency responsibility.* (1) The survey agency must promptly review the results of all complaint investigations and determine whether or not a facility has violated any requirements in part 483, subpart B of this chapter.

(2) If a facility is not in substantial compliance with the requirements in part 483, subpart B of this chapter, the survey agency initiates appropriate actions, as specified in subpart F of this part.

[59 FR 56238, Nov. 10, 1994; 60 FR 50118, Sept. 28, 1995]

Subpart F—Enforcement of Compliance for Long-Term Care Facilities with Deficiencies

SOURCE: 59 FR 56243, Nov. 10, 1994, unless otherwise noted.

§ 488.400 Statutory basis.

Sections 1819(h) and 1919(h) of the Act specify remedies that may be used by the Secretary or the State respectively

42 CFR Ch. IV (10–1–10 Edition)

when a SNF or a NF is not in substantial compliance with the requirements for participation in the Medicare and Medicaid programs. These sections also provide for ensuring prompt compliance and specify that these remedies are in addition to any others available under State or Federal law, and, except for civil money penalties, are imposed prior to the conduct of a hearing.

§ 488.401 Definitions.

As used in this subpart—

New admission means a resident who is admitted to the facility on or after the effective date of a denial of payment remedy and, if previously admitted, has been discharged before that effective date. Residents admitted before the effective date of the denial of payment, and taking temporary leave, are not considered new admissions, nor subject to the denial of payment.

Plan of correction means a plan developed by the facility and approved by CMS or the survey agency that describes the actions the facility will take to correct deficiencies and specifies the date by which those deficiencies will be corrected.

[59 FR 56243, Nov. 10, 1994; 60 FR 50118, Sept. 28, 1995]

§ 488.402 General provisions.

(a) *Purpose of remedies.* The purpose of remedies is to ensure prompt compliance with program requirements.

(b) *Basis for imposition and duration of remedies.* When CMS or the State chooses to apply one or more remedies specified in § 488.406, the remedies are applied on the basis of noncompliance found during surveys conducted by CMS or by the survey agency.

(c) *Number of remedies.* CMS or the State may apply one or more remedies for each deficiency constituting noncompliance or for all deficiencies constituting noncompliance.

(d) *Plan of correction requirement.* (1) Except as specified in paragraph (d)(2) of this section, regardless of which remedy is applied, each facility that has deficiencies with respect to program requirements must submit a plan of correction for approval by CMS or the survey agency.