



Memorandum

To: Skilled Nursing Facilities

From: Bruce Pritschet, Director *BP*
Division of Health Facilities

Date: March 7, 2008

Subject: Skilled Nursing Facility Payment for Nurse Aide Training and Competency Evaluation

The following question was submitted to our office by the North Dakota Long Term Care Association for clarification and further explanation.

Question:

It seems the Administrative Rule for the Nurse Aide Training program is that you cannot require them to pay for the fees for certification. However, we have heard that some facilities require the CNA to work for their organization for a specified time frame when the organization pays for the training. We have so many CNA's that we have paid for their training and they end up leaving shortly after. It seems we should be able to require them to work for us for 6 months to a year or have them pay a portion of the fees? Let me know how you interpret this.

Answer:

**ND Administrative Rule
Nurse Aide Competency Evaluation Programs Chapter 33-07-06-03 (#6).**

6.) The competency evaluation program must ensure that nurse aides employed by or having an offer of employment from a facility are not charged for any portion of the competency evaluation program.

**Code of Federal Regulations
42 CFR 483.152 (c) Prohibition of charges**

- (1) No nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide training and competency evaluation program may be charged for any portion of the program (including any fees for text books or other required course materials).
- (2) If an individual who is not employed, or does not have an offer to be employed as a nurse aide, becomes employed by, or receives an offer of employment from a facility not later than 12 months after completing a nurse aide training and competency evaluation program, the state must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

Summary of NPRM Provisions

We are not permitting nurse aides who are employed by or who have an offer of employment from a facility to be reimbursed for the costs of NATCEPs and CEPs because we believe the law clearly prohibits the approval of programs that charge these individuals, regardless of whether they are later reimbursed.

For those nurse aides who do not have an employment relationship with a facility at the time they enter a CEP or NATCEP but who become employed by or who obtain an offer of employment from a facility not more than 12 months after completion of the program, they must be reimbursed for the costs of the program by the state on a pro rata basis for the period during which they are employed as nurse aides. The time period for reimbursing the nurse aide is not to exceed 12 months.

During the process of implementing the Nurse Aide regulations several questions were posed to CMS for their interpretation and clarification. The following information was received from CMS in May 1, 1997.

Example; A nurse aide without an offer of employment with any facility pays for and takes the CEP (CNA Test) and passes both the skills and written test and is then given her certification as a CNA. Eleven months later she first becomes employed by a facility. The facility that employs this CNA must reimburse the CNA for her total cost of the test and/or training. This can be done on a pro rata basis but must not exceed 12 months to pay the CNA back.

42 CFR 483.158 (b)

FFP for nurse aide training and competency evaluation

FFP is available for State expenditures associated with nurse aide training and competency evaluation programs and competency evaluation programs (NATPCEP) only for---

1. Nurse aides employed by a facility
2. Nurse aides who have an offer of employment from a facility:
3. Nurse aides who become employed by a facility not later than 12 months after completing a nurse aide training program (NATP) or (NATPCEP) or
4. Nurse aides who have received an offer of employment from a facility not later than 12 months after completing a NATP or NATPCEP.

IN CONCLUSION:

You asked for interpretation of the following: "We have so many CNA's that we have paid for their training and they end up leaving shortly after. It seems we should be able to require them to work for us for 6 months to a year or have them pay a portion of the fees? "

RESPONSE:

Both state and federal regulation **prohibits** requiring a nurse aide to work for 6 months to a year prior to reimbursing them or to require that the nurse aide pay a portion of the fees related to nurse aide training and competency evaluation. To do so, facilities would place themselves at risk for loss of their approval to conduct a training program at their facility. Consistent with the regulations, if an individual has an offer of employment or is employed by a facility **prior** to training and competency evaluation, the individual cannot be charged for any portion of the training and competency evaluation, including books or other course materials. If an individual receives an offer of employment and is employed by a facility within the immediate 12 months **after** the completion of a nurse aide training, the facility must reimburse the individual for the cost of the nurse aide training and competency evaluation. The payback to the CNA in this second situation can occur on a pro rata basis, not to exceed 12 months.

3/6/2008