

Facility Assessment:
Third Party Agreements,
Memorandum of
Understanding, Contracts
And Other Services

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Facility Assessment: Contracts, Third Party Agreements, Memorandums of Understanding and Other Services

Reference F Tag

F838 §483.70(e) Facility assessment.

The facility must conduct and document a facility-wide assessment to determine what resources are necessary to care for its residents competently during both day-to-day operations and emergencies. The facility must review and update that assessment, as necessary, and at least annually. The facility must also review and update this assessment whenever there is, or the facility plans for, any change that would require a substantial modification to any part of this assessment. The facility assessment must address or include:

§483.70(e)(1) The facility's resident population, including, but not limited to,

- (i) Both the number of residents and the facility's resident capacity;
- (ii) The care required by the resident population considering the types of diseases, conditions, physical and cognitive disabilities, overall acuity, and other pertinent facts that are present within that population;
- (iii) The staff competencies that are necessary to provide the level and types of care needed for the resident population;
- (iv) The physical environment, equipment, services, and other physical plant considerations that are necessary to care for this population; and
- (v) Any ethnic, cultural, or religious factors that may potentially affect the care provided by the facility, including, but not limited to, activities and food and nutrition services.

§483.70(e)(2) The facility's resources, including but not limited to,

- (i) All buildings and/or other physical structures and vehicles;
- (ii) Equipment (medical and non- medical);
- (iii) Services provided, such as physical therapy, pharmacy, and specific rehabilitation therapies;
- (iv) All personnel, including managers, staff (both employees and those who provide services under contract), and volunteers, as well as their education and/or training and any competencies related to resident care;
- (v) Contracts, memorandums of understanding, or other agreements with third parties to provide services or equipment to the facility during both normal operations and emergencies; and
- (vi) Health information technology resources, such as systems for electronically managing patient records and electronically sharing information with other organizations.



§483.70(e)(3) A facility-based and community-based risk assessment, utilizing an all-hazards approach.

Guidance

The assessment must include or address the facility's resources which include but are not limited to a facility's operating budget, supplies, equipment or other services necessary to provide for the needs of residents

The facility assessment must include an evaluation of any contracts, memorandums of understanding including third party agreements for the provision of goods, services or equipment to the facility during both normal operations and emergencies. The facility assessment must address their process for overseeing these services and how those services will meet resident needs and regulatory, operational, maintenance, and staff training requirements.

For example, if the facility contracts for language translation, the assessment must address how those contractors will ensure services are provided both during normal operational hours and during emergencies.

INTENT OF THIRD PARTY AGREEMENT, CONTRACT, MOU

The intent of the third party agreement, contract or memorandums of understanding evaluation is to address the provision of goods, services, or equipment to the facility during both normal operations and emergencies.

THIRD PARTY AGREEMENT, CONTRACTS AND MEMORANDUMS OF UNDERSTANDING PROCESS AND OTHER SERVICES

Evaluating the facility's contracts, third party agreements and memorandums of understanding for the provision of goods, services or equipment to the facility during both normal operations and emergencies is a required element for the successful completion of the facility assessment. This process will include a review of said agreements from multiple departments within the organization. Based upon the assessment, the resource and service gaps can be addressed through the facility's Quality Assurance and Performance Improvement process.

The following process and corresponding data collection tools are recommended for the completion of the Third Party Agreement, Contracts and Memorandums of Understanding element of the facility assessment:



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1. Team

- a. Assemble a team, underneath the direction of the facility Administrator
- b. Identify specific team members to gather the applicable information

2. Tool

- a. Determine the documentation tool for the evaluation review
 - i. Include:
 1. Service provider name
 2. Type of service provided
 3. Day to day provision
 4. Emergency provision
 5. Date of renewal
 6. Business Associates Agreement in place
 7. Evaluate that the agreement includes language of the provision of qualified staff, competency, etc. as applicable - which is a way to indicate that they provider will provide qualified and competent staff

3. Complete

- a. Complete the review all agreements, MOUs, contracts – including those for other services across all departments
- b. Suggested areas for review include:
 - i. Medical Director
 - ii. Management Agreement/Governing Body
 - iii. Pharmacy
 - iv. IV
 - v. Beds
 - vi. Therapy
 - vii. Laboratory
 - viii. Radiology
 - ix. Dental
 - x. Podiatry
 - xi. Optometrists
 - xii. Audiology
 - xiii. Temporary Agency Staff
 - xiv. Medical Supplies
 - xv. Equipment
 - xvi. Specialty devices(beds, devices, etc)
 - xvii. Oxygen, Respiratory
 - xviii. Food and Nutrition
 - xix. Dietitian



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- xx. Wound Consultation
- xxi. Waste management
- xxii. Hazardous waste
- xxiii. Telephone
- xxiv. Transfer Agreements
- xxv. Hospice
- xxvi. Home Care
- xxvii. Software
- xxviii. Technology
- xxix. Wander alarm system
- xxx. Resident Call system
- xxxi. Emergency services (water, waste, medical waste, etc)
- xxxii. Religious
- xxxiii. Maintenance agreements – (elevator, boiler, fire suppression system, etc)
- xxxiv. Lawn care, snow removal
- xxxv. Transportation companies
- xxxvi. Water contingency
- xxxvii. HVAC
- xxxviii. Accounting
- xxxix. Payroll
 - xl. Learning Management System
 - xli. Security
 - xlii. Dialysis
 - xliii. Pest Control
 - xliv. Barber/beauty
 - xlv. Religious
 - xlvi. Activity therapy
 - xlvii. Massage therapy
 - xlviii. Café or other store arrangements

4. Review

- a. Review and analyze the findings with the team
- b. Summarize the findings with the team
- c. Focus on areas of potential vulnerabilities and the appropriate actions for improvement

5. Identify

- a. Determine trends, if identified, of potential vulnerabilities and improvement opportunities
- b. Summarize the findings and actions with the team

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- c. Determine and implement applicable actions related to the third party agreement, contract or memorandums of understanding evaluation is to address the provision of goods, services, or equipment to the facility during both normal operations and emergencies as it relates to the resident population care and service needs

6. Facility Assessment

- a. Incorporate findings into the applicable sections of the written narrative Facility Assessment.
 - i. Findings should be integrated and compatible with the Facility Assessment and correlating internal programs (i.e. preventative maintenance, equipment management, vendor supply software, emergency preparedness, safety plan, staffing plan etc.)
- b. Utilize the QAPI process

HOW TO INCORPORATE INTO THE FACILITY ASSESSMENT

Per **§483.70(e)**, the facility assessment must include or address an evaluation of the facility's third party agreement, contract or memorandums of understanding evaluation, the provision of goods, services, or equipment to the facility during both normal operations and emergencies as it relates to the resident population care and service needs as indicated in the requirements.

Therefore, it is important to:

- Gather the necessary information as indicated above
- Use the information to answer the questions:
 - How did the facility determine what equipment, supplies, and physical environment would be required to meet all resident needs?
 - What are the major services that we provide to residents
 - Any time someone is in contact with a residents – beauty shop, religious,
 - Do our agreements include language that they will provide personnel to provide the services with appropriate credentials or licensure
 - Do our agreements state that the services are provided day to day, in emergencies or both?
 - Do our agreements have breach of contract language and indemnification
 - Do we have Business Associate Agreements to protect resident health information
 - Do you have a plan or a process to handle a breach of contract?
 - Do we have a process to review our agreements via a process?
- Incorporate your processes into your QAPI plan



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- Monitor the facility assessment annually or upon a change in the facility's operation that would require a substantial modification in the assessment and adjust the facility training plan accordingly.
- Write a narrative description of the facility's third party agreements, contract, memorandum of understandings or other services, see below, into the narrative Facility Assessment. Refer to the list contracts, memoranda of understanding, or other agreements with third parties to provide services or equipment to the facility during both normal operations and emergencies. Consider including a description of the facility process for overseeing these services and how those services will meet resident needs and regulatory, operational, maintenance, and staff training requirements.

- See the Facility Assessment Template.

See the Facility Assessment Template SAMPLE related to the inclusion of the necessary information obtained via this process for the completion of the Facility Assessment.

References

State Operations Manual (SOM) Appendix PP for Phase 2, F-Tag Revisions, and Related Issues

www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Downloads/Advance-Appendix-PP-Including-Phase-2-.pdf

Quality Improvement Organizations, Facility Assessment Tool (2017), <http://qioprogram.org/facility-assessment-tool>

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