

# Long-Term Care: New CMS Regulations Now Require Influenza, Pneumococcal Immunizations.

**SUMMARY:** The goal of this final rule is to increase immunization rates in Medicare and Medicaid participating long term care (LTC) facilities by requiring LTC facilities to offer each resident immunization against influenza annually, as well as lifetime immunization against pneumococcal disease.

LTC facilities will be required to ensure that before offering the immunization, each resident or the resident's legal representative receives education regarding the benefits and potential side effects of immunization.

The facilities will be required to offer immunization against influenza annually and immunization against pneumococcal disease once, unless medically contraindicated or the resident or the resident's legal representative refuses immunization. Increasing the use of Medicare-funded preventive services is a goal of both CMS and the Centers for Disease Control and Prevention (CDC).

**Effective Date:** These regulations are effective on October 7, 2005.

Sec. 483.25 Quality of care.

\* \* \* \* \*

(n) Influenza and pneumococcal immunizations--

(1) Influenza. The facility must develop policies and procedures that ensure that--

(i) Before offering the influenza immunization, each resident or the resident's legal representative receives education regarding the benefits and potential side effects of the immunization;

(ii) Each resident is offered an influenza immunization October 1 through March 31 annually, unless the immunization is medically contraindicated or the resident has already been immunized during this time period;

(iii) The resident or the resident's legal representative has the opportunity to refuse immunization; and

***On October 7, 2005 the US Centers for Medicare and Medicaid Services (CMS) announced new regulations that will take effect immediately requiring that influenza and pneumococcal immunizations be offered in long-term care facilities.***

***These regulations have been formally adopted in final, mandatory form and take effect October 7, 2005.***

***In our September, 2005 newsletter we published a proposed version of the new regulations which CMS published August 15, 2005.***

***Please take note that the wording of the final regulations dated October 7 is different from the August 15 proposed version.***

***Our readers are advised to discard the August, 2005 version of these regulations and to refer only to the final version of the regulations we are publishing here. These materials are not copyrighted and may be copied and redistributed.***

FEDERAL REGISTER October 7, 2005  
Pages 58833-58852

(iv) The resident's medical record includes documentation that indicates, at a minimum, the following:

(A) That the resident or resident's legal representative was provided education regarding the benefits and potential side effects of influenza immunization; and

(B) That the resident either received the influenza immunization or did not receive the influenza immunization due to medical contraindications or refusal.

(2) Pneumococcal disease. The facility must develop policies and procedures that ensure that--

(i) Before offering the pneumococcal immunization, each resident or the resident's legal representative receives education regarding the benefits and potential side effects of the immunization;

(ii) Each resident is offered an pneumococcal immunization, unless the immunization is medically contraindicated or the resident has already been immunized;

(iii) The resident or the resident's legal representative has the opportunity to refuse immunization; and

(iv) The resident's medical record includes documentation that indicates, at a minimum, the following:

(A) That the resident or resident's legal representative was provided education regarding the benefits and potential side effects of pneumococcal immunization; and

(B) That the resident either received the pneumococcal immunization or did not receive the pneumococcal immunization due to medical contraindication or refusal.

(v) Exception. As an alternative, based on an assessment and practitioner recommendation, a second pneumococcal immunization may be given after 5 years following the first pneumococcal immunization, unless medically contraindicated or the resident or the resident's legal representative refuses the second immunization.

FEDERAL REGISTER October 7, 2005  
Pages 58833-58852