(4) Is not an employee of the facility;  
(5) Does not function as a consultant to the facility; and  
(6) Does not have an immediate family member who is a resident of the facility to be monitored.  
  
(b) A State monitor must be used when a survey agency has cited a facility with substandard quality of care deficiencies on the last 3 consecutive standard surveys.  
  
(c) State monitoring is discontinued when—  
(1) The facility has demonstrated that it is in substantial compliance with the requirements, and, if imposed for repeated instances of substandard quality of care, will remain in compliance for a period of time specified by CMS or the State; or  
(2) Termination procedures are completed.  

§ 488.425 Directed inservice training.  
  
(a) Required training. CMS or the State agency may require the staff of a facility to attend an inservice training program if—  
(1) The facility has a pattern of deficiencies that indicate noncompliance; and  
(2) Education is likely to correct the deficiencies.  
  
(b) Action following training. After the staff has received inservice training, if the facility has not achieved substantial compliance, CMS or the State may impose one or more other remedies specified in §488.406.  
  
(c) Payment. The facility pays for directed inservice training.  

§ 488.426 Transfer of residents, or closure of the facility and transfer of residents.  
  
(a) Transfer of residents, or closure of the facility and transfer of residents in an emergency. In an emergency, the State has the authority to—  
(1) Transfer Medicaid and Medicare residents to another facility; or  
(2) Close the facility and transfer the Medicaid and Medicare residents to another facility.  
  
(b) Required transfer when a facility’s provider agreement is terminated. When the State or CMS terminates a facility’s provider agreement, the State arranges for the safe and orderly transfer of all Medicare and Medicaid residents to another facility.  

§ 488.432 Civil money penalties: When a penalty is collected.  
  
(a) When facility requests a hearing. (1) A facility must request a hearing on the determination of the noncompliance that is the basis for imposition of the civil money penalty within the time specified in one of the following sections:  
(1) Section 498.40 of this chapter for a (A) SNF;  
(B) Dually participating facility;  
(C) State-operated NF; or  
(D) Non-State operated NF against which CMS is imposing remedies.  

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