Residents' Rights, Choices, & Preferences: What's the Difference? And WHY Am I Being Cited??

Cat Selman, BS
www.catselman.com

Residents' Rights

- Are guaranteed by the CMS Requirements of Participation (federal law).
- The law requires each nursing home to care for its residents in a manner that promotes and enhances the quality of life of each resident, ensuring dignity, choice, and self-determination.
- Each person is guaranteed these rights.

Residents' Rights

- "Choice" is the act of making a selection; liberty or freedom to choose.
- It is a matter of "control" for the resident.
- In a study utilized for the language in the CMS RoP, nursing home residents rated "choices" as being the top, single-most important item in their lives.

Residents' Rights

- The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility, *including those specified in this section.*
- §483.10(a)(1) A facility must treat each resident with respect and dignity and care for each resident in a manner and in an environment that promotes maintenance or enhancement of his or her quality of life, recognizing each resident's individuality. The facility must protect and promote the rights of the resident.

Residents' Rights

- Each resident has the right to be treated with dignity and respect.
- All activities and interactions with residents by any staff, temporary agency staff or volunteers must focus on assisting the resident in maintaining and enhancing his or her self-esteem and self-worth and incorporating the resident's, goals, preferences, and choices.
- When providing care and services, staff must respect each resident's individuality, as well as honor and value their input.

Examples…

- Encouraging and assisting residents to dress in their own clothes, *rather than hospital-type gowns, and appropriate footwear for* the time of day and individual preferences;
- *Placing labels on* each resident's clothing in a way that *is inconspicuous and* respects his or her dignity (*for example*, placing labeling on the inside of shoes and clothing *or using a color coding system*);

Examples…

- Promoting resident independence and dignity while dining, such as avoiding:
  - ✓ *Daily* use of *disposable* cutlery and dishware;
  - ✓ Bibs *or* clothing protectors instead of napkins (except by resident choice);
  - ✓ *Staff s*tanding over residents while assisting them to eat;
  - ✓ *Staff i*nteracting/conversing only with each other rather than with residents while assisting *with meals;*

Examples…

- Protecting and valuing residents' private space (for example, knocking on doors and requesting permission before entering, closing doors as requested by the resident);
- Staff should address residents with the name or pronoun of the resident's choice, avoiding the use of labels for residents such as "feeders" or "walkers."
- Residents should not be excluded from conversations during activities or when care is being provided, nor should staff discuss residents in settings where others can overhear private or protected information or document in charts/electronic health records where others can see a resident's information;

Examples...

- Refraining from practices demeaning to residents such as leaving urinary catheter bags uncovered, refusing to comply with a resident's request for bathroom assistance during meal times, and restricting residents from use of common areas open to the general public such as lobbies and restrooms, unless they are on transmission-based isolation precautions or are restricted according to their care planned needs.

Examples...

- Consider the resident's life style and personal choices identified through their assessment processes to obtain a picture of his or her individual needs and preferences.
- Staff and volunteers must interact with residents in a manner that takes into account the physical limitations of the resident, assures communication, and maintains respect.
- For example, getting down to eye level with a resident who is sitting, maintaining eye contact when speaking with a resident with limited hearing, or utilizing a hearing amplification device when needed by a resident.

Surveyor Guidance

- Pay close attention to resident or staff interactions that may represent deliberate actions to limit a resident's autonomy or choice.
- These actions may indicate abuse.
- See F600, Free from Abuse, for guidance.

F561 §483.10(f) Self-determination.

- The resident has the right to and the facility must promote and facilitate resident self-determination through support of resident choice, including but not limited to the rights specified in paragraphs (f)(1) through (11) of this section.

F561 §483.10(f) Self-determination.

- The resident has a right to choose activities, schedules (including sleeping and waking times), health care and providers of health care services consistent with his or her interests, assessments, and plan of care and other applicable provisions of this part.

F561 §483.10(f) Self-determination.

- The resident has a right to make choices about aspects of his or her life in the facility that are significant to the resident.
- The resident has a right to interact with members of the community and participate in community activities both inside and outside the facility.
- The resident has a right to participate in other activities, including social, religious, and community activities that do not interfere with the rights of other residents in the facility.

F561 §483.10(f) Self-determination.

- The intent of this requirement is to ensure that each resident has the opportunity to exercise his or her autonomy regarding those things that are important in his or her life.
- This includes the residents' interests and preferences.

F561 §483.10(f) Self-determination.

- It is important for residents to have a choice about which activities they participate in, whether they are part of the formal activities program or self-directed.
- Additionally, a resident's needs and choices for how he or she spends time, both inside and outside the facility, should also be supported and accommodated, to the extent possible, including making transportation arrangements.

F561 §483.10(f) Self-determination.

- Residents have the right to choose their schedules, consistent with their interests, assessments, and care plans.
- This includes, but is not limited to, choices about the schedules that are important to the resident, such as waking, eating, bathing, and going to bed at night.
- Choices about schedules and ensuring that residents are able to get enough sleep is an important contributor to overall health and well-being.
- Residents also have the right to choose health care schedules consistent with their interests and preferences, and information should be gathered to proactively assist residents with the fulfillment of their choices.
- Facilities must not develop a schedule for care, such as waking or bathing schedules, for staff convenience and without the input of the residents.

Examples of Compliance

- If a resident shares that attendance at family gatherings or external community events is of interest to them, the resident's goals of attending these events should be accommodated, to the extent possible.
- If a resident mentions that his or her therapy is scheduled at the time of a favorite television program, the resident's preference should be accommodated, to the extent possible.
- If a resident refuses a bath because he or she prefers a shower or a different bathing method, such as in-bed bathing, prefers to bathe at a different time of day or on a different day, does not feel well that day, is uneasy about the aide assigned to help or is worried about falling, the resident's preferences must be accommodated.

F559 - Right to Share a Room

- The right to share a room with his or her spouse when married residents live in the same facility and both spouses consent to the arrangement.
- The right to share a room with his or her roommate of choice when practicable, when both residents live in the same facility and both residents consent to the arrangement.
- The right to receive written notice, including the reason for the change, before the resident's room or roommate in the facility is changed.

F559 - Right to Share a Room

- Residents have the right to share a room with whomever they wish, as long as both residents are in agreement. These arrangements could include opposite-sex and same-sex married couples or domestic partners, siblings, or friends.
- There are some limitations to these rights. Residents do not have the right to demand that a current roommate is displaced in order to accommodate the couple that wishes to room together. In addition, residents are not able to share a room if one of the residents has a different payment source for which the facility is not certified (if the room is in a distinct part of the facility, unless one of the residents elects to pay privately for his or her care) or one of the individuals is not eligible to reside in a nursing home.

F559 - Right to Share a Room

- Moving to a new room or changing roommates is challenging for residents.
- A resident's preferences should be taken into account when considering such changes.
- When a resident is being moved at the request of facility staff, the resident, family, and/or resident representative must receive an explanation in writing of why the move is required.
- The resident should be provided the opportunity to see the new location, meet the new roommate, and ask questions about the move.

F559 - Right to Share a Room

- A resident receiving a new roommate should be given as much advance notice as possible.
- The resident should be supported when a roommate passes away by providing time to adjust before moving another person into the room.
- The length of time needed to adjust may differ depending upon the resident.
- Facility staff should provide necessary social services for a resident who is grieving over the death of a roommate.

F560 - The Right to Refuse to Transfer to another room in the facility, if the purpose of the transfer is:

- to relocate a resident of a SNF from the distinct part of the institution that is a SNF to a part of the institution that is not a SNF, or
- to relocate a resident of a NF from the distinct part of the institution that is a NF to a distinct part of the institution that is a SNF.
- solely for the convenience of staff.

Resident Preferences

- "Preference" is a greater liking for one alternative over another or others.
- The MDS 3.0 serves as the basis for identifying resident preferences, and codes are usually considered when citations are received.

Resident Preferences

F0400. Interview for Daily Preferences

Show resident the response options and say: "*While you are in this facility...*"

Coding:
1. Very important
2. Somewhat important
3. Not very important
4. Not important at all
5. Important, but can't do or no choice
9. No response or non-responsive

Enter Codes in Boxes

- ☐ **A.** how important is it to you to **choose what clothes to wear?**
- ☐ **B.** how important is it to you to **take care of your personal belongings or things?**
- ☐ **C.** how important is it to you to **choose between a tub bath, shower, bed bath, or sponge bath?**
- ☐ **D.** how important is it to you to **have snacks available between meals?**
- ☐ **E.** how important is it to you to **choose your own bedtime?**
- ☐ **F.** how important is it to you to **have your family or a close friend involved in discussions about your care?**
- ☐ **G.** how important is it to you to **be able to use the phone in private?**
- ☐ **H.** how important is it to you to **have a place to lock your things to keep them safe?**

Resident Preferences

F0500. Interview for Activity Preferences

Show resident the response options and say: "*While you are in this facility...*"

Coding:
1. Very important
2. Somewhat important
3. Not very important
4. Not important at all
5. Important, but can't do or no choice
9. No response or non-responsive

Enter Codes in Boxes

- ☐ **A.** how important is it to you to **have books, newspapers, and magazines to read?**
- ☐ **B.** how important is it to you to **listen to music you like?**
- ☐ **C.** how important is it to you to **be around animals such as pets?**
- ☐ **D.** how important is it to you to **keep up with the news?**
- ☐ **E.** how important is it to you to **do things with groups of people?**
- ☐ **F.** how important is it to you to **do your favorite activities?**
- ☐ **G.** how important is it to you to **go outside to get fresh air when the weather is good?**
- ☐ **H.** how important is it to you to **participate in religious services or practices?**

Observing Resident Preferences

Examples:

- Resident would like to sleep in until 10:00 a.m.
- Resident wants therapy in the afternoon.
- Resident would like peanut butter sandwiches for supper every night.
- Resident would like two baths a week in the evenings.
- Resident would like a private space to make personal phone calls
- Resident wants a secure place for his/her belongings
- Resident wants their room cleaned while they are at lunch
- Resident prefers a cloth napkin instead of a clothing protector

Observing Resident Preferences

How do we determine resident preferences?

- Review the resident preference section of the MDS 3.0.
- Upon admission and at quarterly care conference, ask about specific preferences (especially if dealing with delivery of care)
- Report resident requests for different food, new roommate, later bed time, etc., immediately to the nurse, social worker, or supervisor
- ASK residents what they want! Don't assume they will just follow the facility schedule and routine.

Can We Really Do That??

- Our job is to always try and honor the resident's preferences and choices, in the way they would like them to occur, and as soon as possible, once the request has been made.
- Our job is to OFFER choices, make sure residents know their preferences are important. Do not wait for a request, or a complaint, to meet the stated need and/or preference.

Surveyor Decisions

- How do staff know what a resident's preference(s) is?
- How do staff honor a resident's choice(s)?

Choice vs. Refusal of Care

- Goals for health and well-being reflect the resident's wishes and objectives for health, function, and life satisfaction that define an acceptable quality of life for that individual.
- The resident's care preferences reflect desires, wishes, inclinations, or choices for care. Preferences do not have to appear logical or rational to the clinician. Similarly, preferences are not necessarily informed by facts or scientific knowledge and may not be consistent with "good judgment."

Choice vs. Refusal of Care

- It is really a matter of resident choice. When rejection/decline of care is first identified, the team then investigates and determines the rejection/decline of care is really a matter of resident's choice.
- Education is provided and the resident's choices become part of the plan of care.
- On future assessments, this behavior would not be coded in this item. (E0800: Rejection of Care—Presence & Frequency)

Choice vs. Refusal of Care

- A resident might reject/decline care because the care conflicts with his or her preferences and goals. In such cases, care rejection behavior is not considered a problem that warrants treatment to modify or eliminate the behavior.
- Care rejection may be manifested by verbally declining, statements of refusal, or through physical behaviors that convey aversion to, result in avoidance of, or interfere with the receipt of care.

Choice vs. Refusal of Care

- This type of behavior interrupts or interferes with the delivery or receipt of care by disrupting the usual routines or processes by which care is given, or by exceeding the level or intensity of resources that are usually available for the provision of care.
- A resident's rejection of care might be caused by an underlying neuropsychiatric, medical, or dental problem. This can interfere with needed care that is consistent with the resident's preferences or established care goals. In such cases, care rejection behavior may be a problem that requires assessment and intervention.

Choice vs. Refusal of Care

- Evaluation of rejection of care assists the nursing home in honoring the resident's care preferences in order to meet his or her desired health care goals.
- Follow-up assessment should consider:
  - ✓ whether established care goals clearly reflect the resident's preferences and goals and
  - ✓ whether alternative approaches could be used to achieve the resident's care goals.
- Determine whether a previous discussion identified an objection to the type of care or the way in which the care was provided. If so, determine approaches to accommodate the resident's preferences.

Choice vs. Refusal of Care

- Steps for assessment:
  - ✓ Review the medical record.
  - ✓ Interview staff, across all shifts and disciplines, as well as others who had close interactions with the resident during the 7-day look-back period.
  - ✓ Review the record and consult staff to determine whether the rejected care is needed to achieve the resident's preferences and goals for health and well-being.

Choice vs. Refusal of Care

- Steps for assessment:
  - ✓ Review the medical record to find out whether the care rejection behavior was previously addressed and documented in discussions or in care planning with the resident, family, or significant other and determined to be an informed choice consistent with the resident's values, preferences, or goals; or whether that the behavior represents an objection to the way care is provided, but acceptable alternative care and/or approaches to care have been identified and employed.
  - ✓ If the resident exhibits behavior that appears to communicate a rejection of care (and that rejection behavior has not been previously determined to be consistent with the resident's values or goals), ask him or her directly whether the behavior is meant to decline or refuse care.

Choice vs. Refusal of Care

- Steps for assessment:
  - ✓ The intent of this item is to identify potential behavioral problems, not situations in which care has been rejected based on a choice that is consistent with the resident's preferences or goals for health and well-being or a choice made on behalf of the resident by a family member or other proxy decision maker.
  - ✓ Do not include behaviors that have already been addressed (e.g., by discussion or care planning with the resident or family) and determined to be consistent with the resident's values, preferences, or goals.
  - ✓ Residents who have made an informed choice about not wanting a particular treatment, procedure, etc., should not be identified as "rejecting care."

Examples…

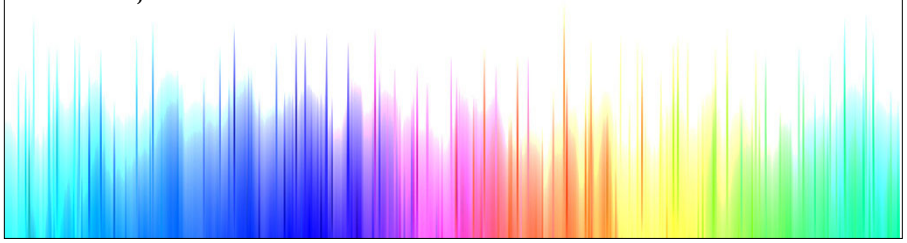
- A resident with heart failure who recently returned to the nursing home after surgical repair of a hip fracture is offered physical therapy and declines. She says that she gets too short of breath when she tries to walk even a short distance, making physical therapy intolerable. She does not expect to walk again and does not want to try. Her physician has discussed this with her and has indicated that her prognosis for regaining ambulatory function is poor.
- Coding: E0800 would be coded "0", behavior not exhibited.
- Rationale: This resident has communicated that she considers physical therapy to be both intolerable and futile. The resident discussed this with her physician. Her choice to not accept physical therapy treatment is consistent with her values and goals for health care. Therefore, this would **not** be coded as rejection of care.

Examples…

- A resident informs the staff that he would rather receive care at home, and the next day he calls for a taxi and exits the nursing facility. When staff try to persuade him to return, he firmly states, "Leave me alone. I always swore I'd never go to a nursing home. I'll get by with my visiting nurse service at home again." He is not exhibiting signs of disorientation, confusion, or psychosis and has never been judged incompetent.
- Coding: E0800 would be coded "0", behavior not exhibited.
- Rationale: His departure is consistent with his stated preferences and goals for health care. Therefore, this is **not** coded as care rejection.

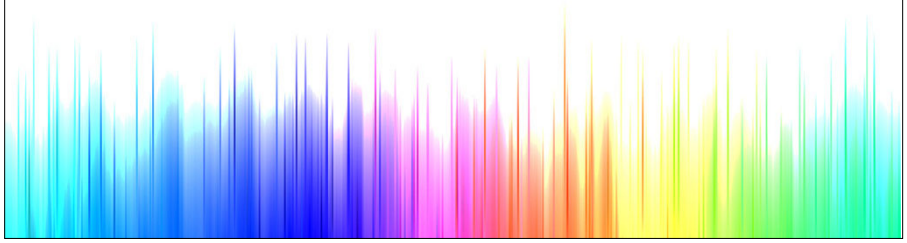
Examples...

- A resident goes to bed at night without changing out of the clothes he wore during the day. When a nursing assistant offers to help him get undressed, he declines, stating that he prefers to sleep in his clothes tonight. The clothes are wet with urine. This has happened 2 of the past 7 days. The resident was previously fastidious, recently has expressed embarrassment at being incontinent, and has care goals that include maintaining personal hygiene and skin integrity.
- Coding: E0800 would be coded "1", behavior of this type occurred 1-3 days.
- Rationale: The resident's care rejection behavior is not consistent with his values and goals for health and well-being. Therefore, this is classified as care rejection that occurred twice.



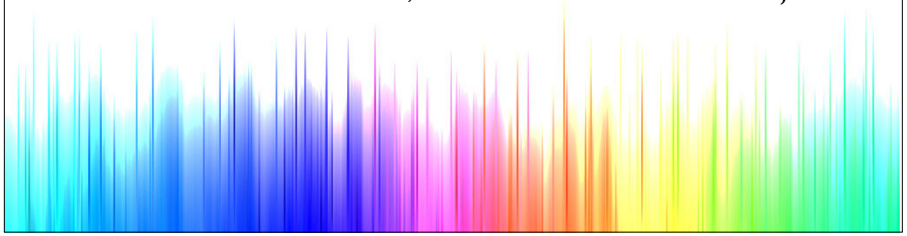
Examples...

- A resident chooses not to eat supper one day, stating that the food causes her diarrhea. She says she knows she needs to eat and does not wish to compromise her nutrition, but she is more distressed by the diarrhea than by the prospect of losing weight.
- Coding: E0800 would be coded "1," behavior of this type occurred 1-3 days.
- Rationale: Although choosing not to eat is consistent with the resident's desire to avoid diarrhea, it is also in conflict with her stated goal to maintain adequate nutrition.



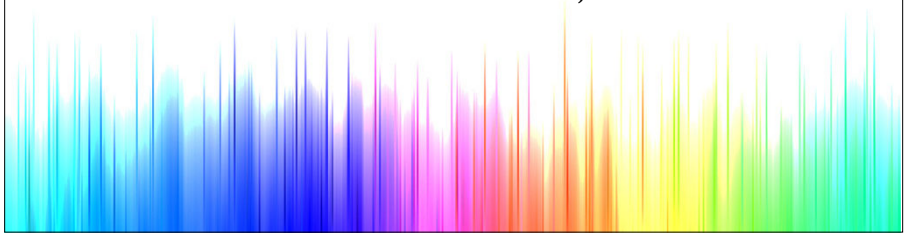
Examples...

- A resident is given his antibiotic medication prescribed for treatment of pneumonia and immediately spits the pills out on the floor. This resident's assessment indicates that he does not have any swallowing problems. This happened on each of the last 4 days. The resident's advance directive indicates that he would choose to take antibiotics to treat a potentially life- threatening infection.
- Coding: E0800 would be coded "2," behavior of this type occurred 4-6 days, but less than daily.
- Rationale: The behavioral rejection of antibiotics prevents the resident from achieving his stated goals for health care listed in his advance directives. Therefore, the behavior is coded as care rejection.



Examples...

- A resident who recently returned to the nursing home after surgery for a hip fracture is offered physical therapy and declines. She states that she wants to walk again but is afraid of falling. This occurred on 4 days during the look-back period.
- Coding: E0800 would be coded "2," behavior of this type occurred 4-6 days, but less than daily.
- Rationale: Even though the resident's health care goal is to regain her ambulatory status, her fear of falling results in rejection of physical therapy and interferes with her rehabilitation. This would be coded as rejection of care.



Examples…

- A resident who previously ate well and prided herself on following a healthy diet has been refusing to eat every day for the past 2 weeks. She complains that the food is boring and that she feels full after just a few bites. She says she wants to eat to maintain her weight and avoid getting sick, but she cannot push herself to eat anymore.
- Coding: E0800 would be coded "3," behavior of type occurred daily.
- Rationale: The resident's choice not to eat is not consistent with her goal of weight maintenance and health. Choosing not to eat may be related to a medical condition such as a disturbance of taste sensation, gastrointestinal illness, endocrine condition, depressive disorder, or medication side effects.

Something to consider…

- Cognition, ability to understand, and decision-making play a huge role in determining a "choice" as opposed to a "refusal of care."
- Be mindful of Section F!

How to do it…

- Person-centered care is a recognition that resident choice and autonomy should be the primary aim of resident care in nursing homes.
- Staff should build a relationship with the resident and the resident's family.
- Forming a personal attachment results in fewer complaints from the residents.
- It also helps to reduce staff turnover.

How to do it…

- Listening is probably not only the greatest gift that we can give to older adults but is one of the most important skills in understanding their life and needs. An older adult said, "I stopped talking when people stopped listening."
- Recognize their view of their age
- Relate to older adults as a 2-way communication bridge
- Treat older adults as individuals not as part of a larger group labeled 'seniors' or 'the elderly'
- "Look at me"

How to do it...

Reminiscence

- Maintains self-esteem and reinforces a sense of identity
- Feels a sense of achievement and pleasure
- Copes with stresses related to aging
- Gains status or acceptance by revealing life history
- Places aspects of the past in perspective
- Deals with emotions such as grief
- Establishes a common ground for communication

How to do it...

Communication Tips:

- Take your time, one thought at a time
- Use body language/non-verbal cues
- Use tone of voice appropriate to the conversation
- Listen to silence
- Acknowledge feelings even if you don't agree
- Look for hidden meanings
- Encourage and reassure

How to do it...

Communication Tips:

- Use active listening (check out what they hear)
- Keep sentences short and simple
- Use repetition
- Speak clearly
- Keep terminology simple, avoiding jargon and acronyms
  Use concrete statements.
- Speak in a clear, even, normal tone
- Wait for responses to questions
- Don't attempt to finish the person's sentences for him or her
- Use humor when appropriate

Resources

CMS State Operations Manual, Woodlawn, MD, Revised November 28, 2016

Observing Resident Preferences, P. Hayle, (2014)

Contact Information

Cat Selman, BS

www.catselman.com

thecatselman@gmail.com

601.497.9837


@TheCatSelmanCompany


@catselman


thecatselman