

# MEMORANDUM

## Department of Aging and Disability Services

**TO:** Regulatory Services Division  
Regional Directors and State Office Managers

**FROM:** Michelle Dionne-Vahalik, Manager  
Policy Development and Support Unit  
State Office MC E-370

**SUBJECT:** Regional Survey and Certification (RS&C) Letter No. 05-03

**DATE:** March 28, 2005

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The attached Centers for Medicare and Medicaid Services (CMS), Regional Survey and Certification (RS&C) Letter, which was issued on March 23<sup>rd</sup>, was e-mailed to you on March 25<sup>th</sup>. It is being provided to you for information purposes and should be shared with all professional staff. It applies to Medicaid/Medicare participating nursing facilities and it provides guidance for determination of severity when dishes are not being sanitized.

- RS&C Letter No. 05-03 – Severity Guidance When Dish Sanitation Standards Are Not Met

If you have any questions, please contact Bevo Morris, Program Specialist, Policy Development and Support, at (512) 438-2363.

[signature on file]

Michelle Dionne-Vahalik

Attachment



## **Division of Survey and Certification, Region VI**

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March 23, 2005

### **REGIONAL SURVEY AND CERTIFICATION LETTER NO. 05-03**

**TO:** All State Survey Agencies (Action/Information)  
All Title XIX Single State Agencies (Information)

**SUBJECT: Severity Guidance When Dish Sanitation Standards Are Not Met.**

The purpose of this letter is to provide guidance for severity determination when dishes are not being sanitized. Acceptable practices for dish sanitization are described in the **Food and Drug Administration Food Code (FDAFC) at 4-501.111 through 4-501.116**, and in the interpretive guidelines for **F-371**.

**A deficient practice is present when a dishwasher is not operating and/or operated in accordance with FDAFC standards for dish sanitization, and should be cited at F-371.** A lack of dishware, pot, pan, and utensil sanitization is a factor attributable to the spread of food borne illness. The elderly have the highest incidence of morbidity and mortality related to food borne illness; therefore, facility compliance with regulations to prevent food borne illness is critical. However, there is currently a lack of empirical evidence that a dishwasher not meeting standards acceptable for sanitization has the **potential** to cause an incidence or outbreak of food borne illness. **While a dishwasher that is not sanitizing is a deficient practice, this occurrence alone does not support a determination of immediate jeopardy.**

Appendix Q describes the components of Immediate Jeopardy, which include **harm** (harm that is serious injury, harm, impairment, or death), or **potential** (likely to cause serious injury, harm, impairment, or death), **immediacy** (likely to occur in the very near future if immediate action is not taken), and **culpability** (Did the entity know? Should they have known? Were corrective measures implemented?). Each situation must be determined on a case by case basis with the full consideration of the team.

**Consider the following questions to guide investigation for severity of deficient practice when dishes, pots, pans, and utensils are not being sanitized according to FDAFC standards:**

1. During food preparation does the facility staff work with raw meat products or unpasteurized eggs? If so, does staff wash their hands after working with these foods, and before storing dishes that have gone through the dishwasher?
2. Are dishes with raw meat juices or unpasteurized egg product on the surfaces washed with eating utensils or plates in a dishwasher that is not sanitizing?

3. Is the detergent mechanism of the machine functioning properly? Dishes that are not adequately sanitized **and** not adequately cleaned are more likely to support bacterial growth.
4. Are the dishes at the facility allowed to air dry after being removed from the dishwasher and before stacking? Moist dishes are more likely to support bacterial growth.
5. Are there visible food substances left on dishes the facility staff consider clean? Studies show that 90% of bacteria are removed when food debris is effectively cleaned from the surfaces of dishes. Food debris still present is more likely to support bacterial growth.
6. How long are the dishes stored after washing and before reuse? If the dishes are stored moist and in a warm environment, the longer they are stored the more bacteria is likely to grow.
7. Does the facility have an unusually high incidence of infections and/or incidence of resident's with unexplained gastrointestinal symptoms like nausea, vomiting, and diarrhea? Consider checking the infection control tracking and trending.
8. How often does the staff check the dishwasher for proper functioning, and the need for routine maintenance? Does the staff regularly check the sanitizer, detergent, and temperature controls to ensure the dishwasher is meeting FDAFC standards?
9. What is the ambient air temperature of the kitchen where dishes are stored? Warm environments are more likely to support bacterial growth.
10. In addition to the elderly population in the facility, what diagnoses do resident's have that would further compromise their immunities? Do any residents have Human Immunodeficiency Virus (HIV), or are any residents especially frail? This information will make the deficiency statement more defensible.
11. Would contacting the dishwasher, sanitizer, or detergent manufacturer or vendor provide useful information for the deficiency statement? Manufacturers and/or vendors typically have bacterial load reduction information specific to their products.

In summary, the determination of immediate jeopardy is not defensible if contingent only upon dishes not being sanitized. However, a dishwasher that is not sanitizing is a deficient practice, should be cited, and should prompt further investigation to ensure that cumulative facility practices are not likely to lead to the development of food borne illness.

If you have any questions, please contact Joanna Person, RD at (214) 767-4417, Vicki Seabolt, RD at (214) 767-4474, or Theresa Bennett, RN at (214) 767-4406.

Sincerely,

/s/

Calvin G. Cline  
Associate Regional Administrator  
Division of Survey and Certification

Attachment

The current Food and Drug Administration Food Code [2001] can be accessed @:

<http://www.cfsan.fda.gov/~dms/foodcode.html>

*The standards for dish sanitization are found at 4-501.111-4-501.116*

**Additional resources regarding the knowledge and prevention of food borne illness:**

<http://www.cfsan.fda.gov/~dms/foodcode.html>

<http://www.foodsafety.gov/>

<http://www.cdc.gov/ncidod/eid/index.htm>

<http://www.cdc.gov/mmwr/>

<http://www.neha.org/>

<http://vm.cfsan.fda.gov/~mow/intro.html>