July 24, 2017

Q: Under Section 483.90 – Physical Environment - in the new CMS Requirements of Participation (RoPs), this new regulation states that CMS is requiring facilities that are constructed, re-constructed or newly certified after November 28, 2016 can only accommodate no more than two residents in a bedroom. The question is with the term re-construction. CMS states that re-construction means that a facility undergoes a reconfiguration of either the entire building or a wing of the building that results in the space not being occupied for a period of time. The question is: Does painting, replacing flooring, other aesthetic changes in a resident bedroom (where the residents may be moved out of the room for a short period of time) require the change to no more than two beds per room and its own bathroom?

A: No, IDPH does not believe that is what the code is saying. With the adoption of the 2012 LSC, CMS also included Chapter 43 in the LSC, which covers Building Rehabilitation. Section 43.2 defines the different types of building rehabilitation. The rehabilitation noted in the question above would appear to be more in line with “renovation,” not re-construction. It makes no sense to enforce the “two beds per room” rule when a provider is only painting or changing carpeting or wall finish. IDPH believes CMS is looking at projects that would “gut” an entire wing or floor for applicability to enforce the two bed rule.