



Expanded CMS survey activities to begin, nursing home survey activities to increase

June 3, 2020

On June 1, 2020, CMS issued [guidance to state survey agency directors](#) regarding survey activities. The guidance allows for expanded survey activities of all providers and suppliers and makes significant changes to nursing home survey activities.

Expanded survey activities for all providers and suppliers

Previously, CMS [suspended survey activity](#) during the COVID-19 public health emergency, only allowing surveys for Immediate Jeopardy, Focused Infection Control and Initial Certification to continue.

The new guidance announced that in order to transition states to more routine oversight and survey activities, CMS is authorizing states to expand beyond the current survey prioritization to perform for **all** provider and supplier types:

- complaint investigations that are triaged as Non-Immediate Jeopardy-High;
- revisit surveys of any facility with removed Immediate Jeopardy (but still out of compliance), Special Focus Facility and Special Focus Facility Candidate recertification surveys; and
- nursing home and Intermediate Care Facility for individuals with Intellectual Disability (ICF/IID) recertification surveys that are greater than 15 months.

The expanded survey activities may begin once a state has entered [Phase 3 of the Nursing Homes Reopening Recommendations](#) or earlier, at the state's discretion.

Additionally, CMS stated that accrediting organizations may resume normal survey activities based on state reopening criteria.

Nursing home survey activities

- **Focused Infection Control surveys.** CMS previously instructed states to focus nursing home surveys on infection control. Noting that there is currently wide variation in the number of Focused Infection Control surveys of nursing homes performed by states, CMS announced that states that have not completed 100 percent of their Focused Infection Control surveys of nursing homes by July 31, 2020, will be required to submit a corrective action plan to CMS and will have funding allocation reduced by up to 10 percent if the state has still not surveyed 100 percent of their nursing homes within an extended 30 day period.
- **Additional survey activities.** CMS is also requiring states to implement the following additional COVID-19 survey activities:
 1. Perform on-site surveys within 30 days (*i.e.*, by July 1, 2020) of nursing homes with previous COVID-19 outbreaks, defined as: (a) cumulative confirmed cases/bed capacity at 10 percent or greater, (b) cumulative confirmed plus suspected cases/bed capacity at 20 percent or greater, or (c) ten or more deaths reported due to COVID-19.
 2. Perform on-site surveys (within three to five days of identification) of any nursing home with three or more new COVID-19 suspected and confirmed cases since the last National Healthcare Safety Network COVID-19 report, or one confirmed resident case in a facility that was previously COVID-19-free.
 3. Starting in FY 2021, perform annual Focused Infection Control surveys of 20 percent of nursing homes based on state discretion or additional data that identifies facility and community risks.

The guidance notes that states that fail to perform these survey activities timely and completely could forfeit additional funding allocation.

- **Enhanced enforcement for infection control deficiencies.** CMS also announced that, due to the heightened threat to resident health from COVID-19, it would be expanding enforcement of infection control deficiencies. The guidance provides that substantial non-compliance with any deficiency associated with infection control requirements will lead to enhanced enforcement remedies based on the history of citations of infection control deficiencies and level of harm of the new citation. In all cases, the guidance calls for a directed plan of correction to be imposed with additional penalties, including discretionary denial of payment for new admissions and civil monetary penalties up to \$20,000 per instance, if the nursing home has a prior history of citations. Further, regardless of past citation history, the guidance calls for a directed plan of correction to be imposed and a denial of payment for new admissions with 30 days to demonstrate compliance with infection control deficiencies when the deficiency is at the Harm level and with 15 days to demonstrate compliance when the deficiency is at the Immediate Jeopardy level.

Authors

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