

NEW GUIDANCE ON NURSING HOME HEALTH INSPECTIONS SEVERELY LIMITS OVERSIGHT AND ENFORCEMENT FOR A THREE-WEEK PERIOD

On March 20, 2020, the Centers for Medicare & Medicaid Services (CMS) issued new [guidance](#) directing state survey agencies to conduct health inspections only if they relate to complaints and facility-reported incidents (FRIs) triaged at the immediate jeopardy level. These facilities will simultaneously have a streamlined infection control review. Additionally, the guidance indicates that federal and state surveyors will now be performing targeted infection control inspections of facilities identified as needing additional oversight. CMS specifies that the directive will be in place for three weeks, starting on March 20th. This guidance supersedes the [March 4th directive](#), which authorized a broader range of surveys to be conducted.

Following are key points from the CMS guidance:

- **Immediate Jeopardy Inspections.** Standard inspections and revisits not associated with immediate jeopardy violations are no longer authorized. If a revisit demonstrates noncompliance at a level lower than immediate jeopardy, surveyors are not to conduct follow-up onsite inspections. CMS notes that these cases will be “held.” Facilities may also delay submitting Plans of Corrections during this period.
- **Non-Immediate Jeopardy Inspections.** Complaints and facility-reported incidents not triaged as immediate jeopardy should be recorded but onsite investigations are not authorized during this period. CMS will issue guidance relating to these non-IJ complaints and FRIs “in the next few weeks.” Surveyors should end any inspections that started prior to this directive and that do not fall under this guidance.
- **Exceptions for Onsite Inspections.** Federal and state surveyors who are unable to meet the CDC’s personal protective equipment (PPE) expectations are being instructed to perform offsite inspections until they can safely enter nursing homes.
- **Penalties.** CMS is suspending impositions of denial of payments for new admissions (DPNAs), per day civil money penalties (CMPs), and terminations for noncompliance at six months until revisits are once again authorized. Financial penalties that began before the start of this three-week period will stop accruing and denial of payments will end. CMS will not impose any “any new remedies to address noncompliance” that occurred before the start of this period. However, enforcement actions will continue for unremoved immediate jeopardy deficiencies.

- **Self-Assessments.** Nursing homes should use the infection control-focused survey (included with the guidance) developed by CMS and the CDC to perform voluntary self-assessments. Surveyors may request the survey during onsite inspections.

Our organizations are deeply troubled by the latest CMS guidance. Only a small percentage of health violations are ever triaged and identified as immediate jeopardy. **Thus, under this guidance, the majority of potential and existing violations of nearly *all* the nursing home standards of care will essentially be overlooked for the next three weeks. How many residents will experience pain and suffering in silence during this period?**

Additional Resources:

- LTCCC's [Coronavirus Resources](#) webpage
- The Center's [COVID-19 \(Coronavirus\) and Medicare](#) webpage

For more information about Medicare and nursing home care, please visit:
www.MedicareAdvocacy.org | www.NursingHome411.org.