

Eli's Hospice Insider

Know What To Expect At Survey Time Regarding Exemptions

Can surveyors second-guess your exemption decisions?

Survey trouble is brewing for hospices that fall down on the job of instituting a compliant COVID-19 staff vaccination program.

Compliance may be particularly tricky when it comes to the exemptions process, legal experts agree.

Good news: "Surveyors will not evaluate the details of the request for a religious exemption, nor the rationale for the hospice's acceptance or denial of the request," the Centers for Medicare & Medicaid Services spells out in surveyor guidance for the mandate. "Rather, surveyors will review to ensure the hospice has an effective process for staff to request a religious exemption for a sincerely held religious belief." CMS includes the same language in the home health agency guidance.



More good news: When it comes to medical exemptions based on clinical contraindications, CMS instructs surveyors to review and verify "all required documentation," which is "signed and dated by physician or advanced practice provider" and "states the specific vaccine that is contraindicated," as well as "the recognized clinical reason for the contraindication with a statement recommending exemption."

CMS does not ask surveyors to make their own evaluation of whether the agency should have granted or denied the exemption, but rather check to make sure the required process was followed.

For religious exemptions, the guidance makes clear "the surveyors should only review the agency's process," emphasizes attorney **Robert Markette Jr.** with Hall Render in Indianapolis. That means "providers will need to be sure their policies and procedures clearly outline this process and that they document following it," Markette advises.

Bottom line: "Surveyors should not be evaluating the substance of an employee's request," Markette tells AAPC.