

Long-Term Care Survey Alert

Should You Self-Report A Deficiency?

A puzzling provision of the Affordable Care Act is one that offers nursing facilities a break of up to 50 percent on civil monetary penalties related to a compliance breach that is "self-reported." Although it is unlikely that many facilities will find the discounted, essentially self-imposed, CMP an attractive option, you should understand how the new rule evolved.

Although Congress [\[1\]](#) and CMS [\[2\]](#) originally and illogically suggested that "self-reporting" of a deficiency must occur "not later than 10 calendar days after the date of [a CMP imposition,]" the agency later promulgated a subsequent rule "clarifying" the provision.

That rule spells out that the conditions for receiving the 50-percent CMP reduction include self-reporting a deficiency to the state before a survey. In addition, the facility must be able to correct the deficiency promptly [\[3\]](#) within either 15 days of the reporting or 10 days of the CMP imposition, whichever is earlier. A facility is also required to forgo all appeals. In return, CMS will reduce any resulting CMP by 50 percent.

Bottom line: The self-reporting provision is unlikely to benefit facilities, say veteran long-term care attorney Joseph Bianculli and other experts. Fix what is broken, by all means, and report suspected abuse, neglect, and injury as required by law and sound management. But don't increase your liability unnecessarily.