

MDS Alert

Reimbursement: Brace Yourself: How The Government Shutdown Will Affect You

Don't expect most types of surveys anytime soon.

When Congress failed to pass its budget measure, the U.S. federal government effectively shut down at midnight on Oct. 1, leaving most people to wonder what that actually means. And for long-term care providers, there's really no simple answer.

In the short-term, Medicare will continue for the most part without disruption, wrote Barbara Gay, director of governmental affairs for Washington, DC-based **Leading Age**, in a recent analysis. And an advance appropriation will provide states with funding for Medicaid as well.

Medicare Administrative Contractor (MAC) operations will also continue during the government shutdown, according to the Centers for Medicare & Medicaid Services (CMS) Medicare Learning Network. All Medicare fee-for-service claims processing and payments will continue.

Why Many Complaint Investigations Will Continue

A recent blog posting by the Indianapolis-headquartered law firm Hall, Render, Killian, Health & Lyman pointed to a recent Survey & Certification Memo (S&C) that details the government shutdown's impact on long-term care providers. The S&C (S&C: 14-02-ALL) states that CLIA survey and certification functions will continue unaffected. The same is true for the Background Check National Program and CMS Vendor contracts awarded before Oct. 1.

Status-quo: Most Medicare program functions will continue during the shutdown, although CMS will scale back many of them. According to the S&C, these functions include:

- Complaint investigations alleging harm;
- Federal enforcement actions that result from complaint investigations alleging harm, if the complaints are substantiated with a finding of immediate jeopardy (IJ) or actual harm;
- State survey agency actions to mitigate any other immediate threats to life or safety; and
- State survey agency tasks begun prior to Oct. 1, if completing such tasks is necessary to ensure an orderly shutdown (provided the task can be accomplished within four hours of CMS notification).

What Will Disappear for Now

Pay attention: Standard surveys, initial surveys, validation surveys, and initial certification via deemed status will cease during the shutdown, Hall Render said. Also at a standstill are "certain revisit surveys, including onsite and desk revisits that are not required to prevent termination of Medicare participation."

According to the S&C, state survey agencies can request approval to conduct a revisit when:

- A provider or supplier has alleged compliance with CMS requirements, AND
- The revisit survey is necessary to determine compliance and prevent the scheduled Medicare termination of a provider or supplier, AND
- The Medicare termination is likely to threaten the safety of human life, such as by creating access to care or other serious, immediate and negative consequences for beneficiaries.

Patient Safety Initiative (PSI) pilot surveys, certain complaint investigations, Informal Dispute Resolutions (IDRs), and new



CMP-funded improvement projects will all stop during the shutdown, Hall Render noted. Also on the chopping block are "MDS or OASIS activities except those necessary to maintain provider reporting."

Bottom line: The government shutdown will continue until Congress enacts a spending bill, and there's no telling when that will happen.