

MDS Alert

Surveys and Compliance: Know How this Special Survey Guidance May Affect You

Surveyors will be looking for infection control and prevention measures.

The Centers for Medicare & Medicaid Services (CMS) announced that long-term care (LTC) facilities will undergo only certain surveys for three weeks beginning March 23, 2020, in the midst of the COVID-19 pandemic, caused by the virus SARS-CoV-2.

"Complaint/facility-reported incident surveys: State survey agencies (SSAs) will conduct surveys related to complaints and facility-reported incidents (FRIs) that are triaged at the Immediate Jeopardy (IJ) level. A streamlined Infection Control review tool will also be utilized during these surveys, regardless of the Immediate Jeopardy allegation," says **David R. Wright**, director of quality, safety & oversight group, at **CMS**, in a March 23 memorandum.

These new rules follow the aftermath of the deadly outbreak of COVID-19 at a Washington state nursing home. Smaller - so far - outbreaks are actively occurring at other nursing facilities around the country, including a facility in New Jersey and a retirement community in Long Island, New York.

"CMS announced its findings from its inspection of the Kirkland, Washington nursing home where the first COVID-19 outbreak in the country occurred. The findings of federal and state surveyors - which include three Immediate Jeopardy-level citations - provided the foundation for a new Infection Control survey process," says **Linda Elizaitis, RN, RAC-CT, BS**, president and founder of **CMS Compliance Group** in Melville, New York.

Prioritize Infection Control

Since COVID-19 can be especially deadly for older people or people with comorbidities or complicated health, CMS' focus on infection control makes sense. See story, page 35, for more information on which symptoms staff should look for and how you should be preparing your facility.

Surveyors noted infection control deficiencies in the Washington facility and are looking to make sure other facilities are better prepared.

"Specifically, the facility failed to identify and manage sick residents, failed to notify the state health department and the state about sickness among residents, and failed to have a backup plan for when their staff doctor became sick," says **Seema Verma**, CMS administrator, in a press release.

The three-week survey-focus change will look heavily into infection control, Wright says. Federal CMS and state surveyors will be conducting targeted infection control surveys of certain providers. These facilities are identified via collaboration between the Centers for Disease Control and Prevention (CDC) and the Department of Health and Human Services Assistant Secretary for Preparedness and Response, Wright says. Surveyors will utilize a "streamlined review checklist" to try and avoid overly affecting provider activities, while also checking to see that providers are acting to protect the health and safety of residents and staff.

You or a colleague can access this checklist to do a voluntary self-assessment of your facility's infection control plan and protections.

Standard surveys for LTC facilities will be paused. "This includes the life safety code and Emergency Preparedness elements of those standard surveys, and revisits that are not associated with IJ," Wright says.

Important: Wright instructs surveyors not to enter a facility if they don't have adequate or appropriate personal protective equipment (PPE), as outlined by the CDC, and to obtain the necessary information remotely until they are more prepared with the proper equipment. So, feel empowered to make sure surveyors aren't putting your facility's residents at risk, especially because utilizing PPE is federal guidance.

Don't Worry About These Enforcement Actions Right Now

Revisits that are not associated with IJ are suspended, and part of the survey pause includes the enforcement actions surveyors can levy, too.

Elizaitis points out that these particular enforcement actions are suspended for nursing homes:

- Denial of Payment for New Admissions (DPNAs),
- Per day Civil Money Penalty (CMP) accumulation, and
- Imposition of termination for facilities not in substantial compliance at six months.

As for DPNAs, this includes situations where facilities are not in substantial compliance at three months. "This will allow for new admissions during this time period," she explains.

Understand These Potential Scenarios

Obviously, surveyors may be in your facility while other stuff is going on.

What happens if your facility discovers an active COVID-19 infection while surveyors are there, investigating an IJ or facility-related incident (FRI)?

In such an event, "Surveyors will report the case to the State Survey Agency (SSA), the state health department, and the CMS Regional Office. These groups will decide what action to take," Elizaitis says.

Note: "The Infection Control Survey Process can be used to investigate noncompliance and ensure that the provider is taking the necessary steps to minimize transmission of COVID-19 in the facility," she adds.

If surveyors cite your facility with deficiencies that qualify as IJ but haven't verified that the IJ has been removed, they will be back on a revisit survey after this pause ends.

You can see the deficiencies surveyors found at the Kirkland, Washington, facility that experienced the first major outbreak in the country, here:

www.cms.gov/newsroom/fact-sheets/kirkland-washington-update-and-survey-prioritization-fact-sheet.

Resource: Find out more about this special survey period from this memoranda at www.cms.gov/files/document/qso-20-20-all.pdf.