

## MDS Alert

### Surveys: New Changes To The SFF Program: Stay Off This CMS List

**If selected, make sure you take these actions to get out of the program.**

**Bad news:** Now you can end up on the federal government's "naughty list" if your Five Star Quality Rating is sub-par. Here's what you need to know about the recent changes to how the **Centers for Medicare & Medicaid Services** (CMS) is handling poor-performing nursing facilities.

#### Understand the Selection Process

On March 2, CMS released a new Survey & Certification (S&C) memo detailing updates to the Special Focus Facility (SFF) Program. SFFs are nursing facilities that are consistently poor performers on surveys, with a persistent pattern of poor quality on their last three standard surveys and complaint surveys, according to **CMSCompliance Group Inc.** (CMSCG).

CMS provides a list of candidates to each State Survey Agency (SA), and the SA then selects the ones to add to the SFF list. The CMS Regional Office (RO) provides the final approval.

**Watch out:** SAs are motivated to add facilities to the SFF list when a slot is open due to a facility's termination or graduation from the program. CMS requires SAs to select a new facility from the candidate list for the SFF program within 21 calendar days from the date the slot opens.

Among other changes, the S&C memo updates the methodology for selecting new SFFs, "harmonizing" it with the health inspection domain of the Five Star Quality Rating System, CMSCG explains. This means you can expect nursing facilities to join the SFF list on a monthly basis, when CMS makes the Five Star updates.

#### The Stakes are High

If the SA selects your facility to add to the SFF list, the SA will notify you in writing and conduct a meeting (either onsite or via telephone). Under the SFF program, your facility will undergo at least one standard survey every six months and be under close scrutiny from CMS.

If selected as an SFF, you'll have to notify your residents and resident representatives about your facility's selection.

CMS or the SA will impose immediate remedies on an SFF that fails to improve significantly in correcting deficiencies. This can begin on the first survey after the facility becomes an SFF, as well as each subsequent survey. CMS defines significant improvement as demonstrating that the SFF has had no deficiencies with a scope and severity level above an "E" (or an "F" for LSC deficiencies).

**Beware:** Enforcement remedies will increase in severity for SFFs that fail to make significant improvements with each standard survey and intervening complaint survey that starts a new enforcement cycle, according to CMS. Remedies include a civil money penalty (CMP), discretionary Denial of Payment for New Admissions (DPNA), Directed Plan of Correction (DPOC), temporary management, and other remedies.

If a facility remains in the SFF program after three consecutive standard surveys, and the most recent survey cites a deficiency at an "F" level or greater (or "G" or greater for LSC), the SA will schedule a "last chance survey."

#### How to Get Out of the SFF Program

Unfortunately, once your facility enters the SFF program, there are only two destinations: either graduate from the program, or CMS terminates your facility from Medicare and Medicaid.

In the memo, CMS also updated the process to "graduate" from the SFF program. A nursing facility can graduate from the SFF program once it:

- Completes two consecutive standard surveys with no deficiencies cited at a scope and severity level of "F" or greater;
- Completes two consecutive standard surveys with no Life Safety Code (LSC) deficiencies at a scope and severity level of "G" or greater; and
- Has had no complaint surveys with deficiencies at "F" or greater (or "G" or greater for LSC deficiencies) in between those two standard surveys.

If the only deficiency preventing graduation is an "F" level deficiency for food safety requirements (F371), then the RO has discretion to allow the facility to graduate from the SFF program. But F371 deficiencies at a "G" level or greater will prevent the facility from graduating.

**Link:** To read the S&C memo 17-20-NH, go to

[www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-17-20.pdf](http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-17-20.pdf).