

MDS Alert

Surveys: Your Survey Exit Conferences Just Got A Little More Vague

How surveyors will handle Immediate Jeopardy citations differently than others.

If you've been accustomed to the survey team giving you valuable insights during the Exit Conference on which tags they might cite, get ready for surveyors to start dodging your questions about their specific findings.

This is thanks to a new Advance Guidance Survey & Certification (S&C) letter to surveyors on the procedures for conducting Exit Conferences, which the **Centers for Medicare & Medicaid Services** (CMS) released on March 11. The S&C: 16-11-ALL memo is entitled, "Exit Conferences □ Sharing Specific Regulatory References or Tags."

CMS released the memo in response to questions it received regarding how much specific information surveyors may divulge during the Exit Conference to providers and suppliers. CMS also revised the State Operations Manual (SOM), Chapters 2 and 5, and Appendix P.

Consider the Exit Conference 'Informal'

First, CMS reinforced the notion that Exit Conferences are "informal" and conducted during the onsite federal survey as "both a courtesy to the provider and a way to expedite the provider's planning ahead of the formal receipt of the survey findings in the Form CMS-2567, Statement of Deficiencies." The basic function of the Exit Conference is to provide an opportunity to exchange information and informally communicate preliminary survey team findings.

Need to know: The Exit Conference occurs at the conclusion of the survey and is not a requirement. Also, CMS stresses in the memo that any survey findings you discuss with surveyors during the Exit Conference are "preliminary in nature and are subject to change pursuant to the State and CMS supervisory review processes."

"The biggest change is that the facility has far less information regarding the findings (scope and severity) of the survey upon exit," says **Kris Mastrangelo**, President and CEO of **Harmony Healthcare International**.

"Historically, information and feedback obtained during a survey Exit Conference not only guided the facility in their plan of correction but acted as a platform for 'teachable moments,'" Mastrangelo notes. "These nuggets of information contributed to ongoing operational and clinical continuous improvement."

Don't Expect Specific Tag Citations

The most significant clarification in the S&C memo "is that surveyors may not provide Scope and Severity of a deficiency unless it is an Immediate Jeopardy, because supervisory review may change the preliminary Scope and Severity," agrees **Linda Elizaitis, RN, RAC-CT, BS**, President of **CMS Compliance Group Inc.** "Instead of providing the Scope and Severity, surveyors should use general terms to describe the scope and provide the number of residents affected."

Surveyors may provide you with information regarding specific tags cited, but they must note that the findings are preliminary and may change pursuant to State and CMS review processes, according to Elizaitis. "If the tags are still under discussion, the surveyors will not share this information at the Exit."

If you don't ask for the regulatory basis or specific tag code, CMS allows the survey team to use its own judgment in determining whether to share this information with you □ essentially based on whether the survey team thinks the

additional information would provide more insight for your facility. Further, if the survey team is still deciding on the specific tags to cite, the team "must not speculate" at the Exit Conference as to the tag coding that they'll apply.

Examples: CMS illustrated a few scenarios, such as if the survey team is still deliberating whether the finding was a care planning deficiency or a staff training deficiency. Or, the survey team may want to consult with other State personnel like a pharmacist before assigning a specific tag number to the deficiency finding.

"In these cases, the survey team should describe the general area of non-compliance without identifying a specific tag code," CMS instructed. "This is a judgment to be made by the survey team onsite, so in preparation for the Exit Conference the team should deliberate as to the degree of detail that will be appropriate."

You'll Get More Detail on Immediate Jeopardy Deficiencies

Caveat: You may get more detailed feedback from surveyors on deficiencies when they fall under the Immediate Jeopardy classification, however. For Immediate Jeopardy citations, the survey team should offer up the Scope and Severity during the Exit Conference.

For other findings, survey teams may describe to you the general seriousness or urgency that a deficiency may pose to residents' well-being. And if you ask the surveyors about whether the noncompliance is isolated, a pattern, or widespread, the surveyors should answer you with the facts.

What's more: CMS also reinforced in the memo that states must follow the federal process. CMS informed States that their laws do not override the federal survey process, and their State process may not deviate from the procedures provided by CMS, Elizaitis explains.

"States are not permitted to have blanket policies that differ from the policy described in this section," the memo said. "For example, States may not require surveyors to always provide certain information during the Exit Conference."

CMS also included a clarification that State surveyors cannot leave draft CMS-2567 forms onsite during the Exit Conference, because they won't be final until they have had a post-survey quality review, Elizaitis notes.

Less Information May Make Compliance Harder

Some industry leaders expect these changes to affect providers negatively, because providers will likely lose out on valuable feedback from surveyors. As Mastrangelo posits, "Why take away a potential discussion that enlightens the facility team on how to do better?"

Bottom line: "The facility will navigate the actual process in a different manner ... what the manner is will soon be seen," Mastrangelo states. "Whether it is more caution or less diligence, either response is a product of a lack of feedback from the governmental expert eyes."

"Regardless of the nature and intent of the survey process, providers use this forum to better the quality of care rendered to its residents," Mastrangelo continues. "It is quite possible that the more stringent forum may negatively impact overall results."

Silver lining: But other industry stakeholders are taking a more optimistic approach. "The range of information that has been shared during Exit Conferences has varied widely between States as well as Regional Offices within a State," Elizaitis points out. "This CMS S&C letter should, hopefully, decrease the inconsistencies in information being shared during Exit Conferences."

Look ahead: Consider using an organized methodology "to self-identify what the possible tags might be, based on the information that is being elicited by the survey team," suggests **Marilyn Mines, RN, BC, RAC-CT**, MDS Alert Consulting



Editor and Senior Manager at **Marcum LLP**. Keep an eye out for future issues of MDS Alert for tips on preparing for the annual survey and conducting mock surveys.

Link: To read the S&C: 16-11-ALL memo, go to www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-16-11.pdf.