

Onsite state and federal hospital surveys to resume after temporary pandemic suspension

March 29, 2021

As anticipated, the Centers for Medicare & Medicaid Services (CMS) rolled back the previously announced limitation of onsite surveys in hospitals in response to the COVID-19 public health emergency (PHE). CMS issued a memorandum on March 26, 2021 (QSO-21-16-Hospitals), providing updated guidance to State Survey Agencies with respect to onsite surveys and desk reviews (the “Survey Memorandum”). The Survey Memorandum provides the following key guidance:

- The temporary suspension of onsite hospital survey activity (which did not include complaints triaged at the immediate jeopardy (IJ) level) has ended. The suspension was announced on January 20, 2021 and extended on February 18, 2021 through March 22, 2021 pursuant to the QSO-21-13-Hospitals memorandum.
- Complaints triaged as non-IJ that were received during the suspension period (January 20, 2021 through March 22, 2021) must now be investigated by State or Federal surveyors within 45 calendar days following issuance of the Survey Memorandum, i.e., no later than May 10, 2021.
- In addition, hospitals that were permitted to delay their submission of required Plans of Correction (POC) must now submit the POC within 10 calendar days following issuance of the Survey Memorandum, i.e., no later than Monday, April 5, 2021. To the extent a hospital believes it cannot meet this deadline because it is currently experiencing an outbreak of COVID-19 in its geographic area (e.g., insufficient personnel to adequately develop and implement POC due to peak clinical demands), CMS indicates that the hospital should contact the State Survey Agency and/or CMS location to request an extension.
- Surveyors may use desk reviews for follow-up and evaluation of compliance of open surveys with non-IJ findings. Whether surveyors perform onsite surveys or desk reviews may depend on staff availability and local COVID status. This applies only to surveys suspended between January 20, 2021 through March 22, 2021.
- Surveyors can re-start onsite revisit surveys, although they may continue to utilize desk reviews based on the POC materials submitted by a hospital to demonstrate their compliance with the deficient Medicare requirements. This instruction applies to revisit surveys required for both recertification surveys and complaint investigation surveys; however, unremoved IJ findings require an onsite revisit.
- Hospitals with open survey cases not including IJ findings will have between 60 and 90 calendar days following the issuance of the Survey Memorandum to demonstrate compliance post-survey, i.e., May 25, 2021 or June 24, 2021, respectively.
- In ordinary circumstances hospitals must submit Plans of Correction within 10 calendar days after receiving the statement of deficiencies (Form CMS-2567). This short timeline allows surveyors time to review a POC to determine if it is acceptable and then to perform revisit surveys within 45 calendar days thereafter (and prior to the tentative termination date). The Survey Memorandum extends this timeline, but cautions that the policy

may vary by CMS Regional Office or State Survey Agency. **Because this timeline may vary, it is important for hospitals to follow the Federal and applicable state instructions and not to assume hospitals will automatically have an extended period for response.**

While this Survey Memorandum does not mention what, if any, guidance will be provided to hospital accrediting organizations, it is likely they will be encouraged to resume surveys in a similar fashion.

The Dentons Health Care Group will continue to provide timely updates and insights on COVID-19 and other Medicare and Medicaid issues and is available to assist with policy interpretation and implementation.

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