



STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
*Aging and Long-Term Support Administration*  
*PO Box 45600, Olympia, Washington 98504-5600*

August 9, 2018

**AL TSA: NH #2018-018**

**QSO 18-18-NH: IMMEDIATE IMPOSITION OF FEDERAL REMEDIES**

Dear Nursing Facility/Home Administrator

The purpose of this letter is to inform you the Centers for Medicare & Medicaid Services (CMS) has revised Chapter 7 of the State Operations Manual (SOM). The revisions are reflected in the [QSO 18-18-NH memo](#).

Skilled Nursing Facilities (SNFs), Nursing Facilities (NFs) and dually participating facilities (SNF/NFs) are required to be in substantial compliance with Medicare and Medicaid requirements at all times and are always responsible for the health and safety of their residents. The purpose of federal remedies, which are imposed after finding a facility is out of substantial compliance with Medicare and Medicaid requirements, is to encourage quick action on the part of facilities to promptly achieve, sustain, and maintain compliance with all federal requirements.

When a facility fails to maintain compliance with federal Medicare and Medicaid participation requirements, there are specific statutorily mandated remedies under sections 1819 and 1919 of the Social Security Act that CMS is required to take that address higher scope and severity (S/S) harm level deficiencies, substandard quality of care, and cases of extended noncompliance. To support the purpose of federal remedies, CMS has directed the immediate imposition of federal remedies in certain situations.

In addition to the required remedies that must be imposed when a facility is determined to be out of substantial compliance, CMS will select federal remedies that inspire a facility to act quickly in order to achieve compliance and maintain continued compliance with Medicare and Medicaid requirements.

When facilities are out of substantial compliance for designated time periods, have deficiencies that harm residents in violation of quality of care regulations, have repeated deficiencies that harm residents or put them in immediate jeopardy, and when Special Focus Facilities (SFF) are cited for certain deficiencies, States must refer case information to CMS Regional Offices (RO) for enforcement action as specified in Chapter 7 of the SOM.

CMS has revised guidance relating to the Immediate Imposition of Federal Remedies in Chapter 7 of the SOM. Substantive revisions to the prior Immediate Imposition of Federal Remedies guidance S&C: 16-31-NH include:

- When the current survey identifies Immediate Jeopardy (IJ) that does not result in serious injury, harm, impairment or death, the CMS RO must immediately impose a remedy. Some of the possible remedies include a civil money penalty (CMP), directed in service training, directed plan of correction. A complete list of enforcement remedies can be found at [42 CFR 488 Subpart F](#).

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- Clarifying that Past Noncompliance deficiencies (as described in §7510.1 of Ch. 7 of the SOM (i.e. Determining Citations of Past Noncompliance at the Time of the Current Survey) are not included in the criteria for Immediate Imposition of Remedies; and,
- For SFFs, scope/severity level “F” citations under tags F812, F813 or F814 are excluded from immediate imposition of remedies.

Other sections of Chapter 7 have been revised to ensure conformity and consistency with these revisions. Specifically, the following sections, which include previous language that has been renumbered, moved and/or consolidated to provide better organized guidance:

- §7205 -Survey Frequency: 15-Month Survey Interval and 12-Month Statewide Average
- §7205.1 – Last Day of Survey
- §7205.1.1 – Setting the Mandatory 3-Month and 6-Month Sanction Time Frames
- §7310 -Immediate Jeopardy (IJ) Does Not Exist
- §7317 – Acceptable Plan of Correction
- §7400.4 -Other Factors That May Be Considered in Selecting Enforcement Remedy Within a Remedy Category
- §7510.1 – Determining Citations of Past Noncompliance at the Time of the Current Survey

The final version of these revisions to Chapter 7, when published in the SOM may differ slightly from this attached interim advanced copy. These changes will be effective within 30 days of the publication date of the QSO 18-18-NH memo.

Thank you for your continued commitment to resident health and safety. If you have any questions related to this memo, please contact CMS (DNH Triage Team) at [dnh\\_triageteam@cms.hhs.gov](mailto:dnh_triageteam@cms.hhs.gov).

Sincerely,



Candace Goehring, Director  
Residential Care Services

DSHS: “Transforming Lives”