



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

July 17, 2020

AL TSA: NH #2020-047
CLARIFICATION OF NH #2020-038 AND CMS QSO-20-31-ALL
ENHANCED ENFORCEMENT STANDARDS FOR INFECTION CONTROL

Dear Nursing Facility/Home Administrator:

The purpose of this letter is to inform providers that CMS is enhancing its penalties for noncompliance with infection control to provide greater accountability and consequence for failures to meet these basic requirements. This action follows the agency's prior focus on equipping facilities with the tools they needed to ensure compliance, including 12 nursing home guidance documents, technical assistance webinars, weekly calls with nursing homes, and many other outreach efforts. The enhanced enforcement actions are more significant for nursing homes with a history of past infection control deficiencies, or that cause actual harm to residents or Immediate Jeopardy.

The enhanced enforcement is only for deficiencies under F880, infection control for D or greater scope/severity. Specific CMS guidance is found in the June 1, 2020 memorandum [QSO-20-31-All](#).

Below is a summary of the enhanced enforcement remedies for F880 citations:

Non-compliance for an Infection Control (IC) deficiency when none have been cited in the last year (or on the last standard survey):

- Nursing homes cited for current non-compliance that is not widespread (S/S = D & E)
 - Directed Plan of Correction (DPOC)
- Nursing homes cited for current non-compliance with IC requirements that is widespread (S/S = F)
 - DPOC;
 - Discretionary Denial of Payment for New Admissions (DDPNA) within 45-days to demonstrate compliance with IC deficiencies.

Non-compliance for IC deficiencies cited once in the last year (or last standard survey):

- Nursing Homes cited for current non-compliance with IC requirements that is not widespread (S/S = D & E)
 - DPOC;
 - DDPNA within 45-days to demonstrate compliance with IC deficiencies;
 - Per Instance Civil Monetary Penalty (CMP) up to \$5000 (at State/CMS discretion)
- Nursing Homes cited for current non-compliance with IC requirements that is widespread (S/S = F)
 - DPOC;
 - DDPNA within 45-days to demonstrate compliance with IC deficiencies;
 - \$10,000 Per Instance CMP

Non-compliance that has been cited for IC deficiencies twice or more in the last two years (or twice since second to last standard survey):

- Nursing homes cited for current non-compliance with IC requirements that is not widespread (S/S = D & E)
 - DPOC;
 - DDPNA within 30-days to demonstrate compliance with IC deficiencies;
 - \$15,000 Per Instance CMP (or per day CMP may be imposed, as long as the total amount exceeds \$15,000)
- Nursing homes cited for current non-compliance with IC requirements that is widespread (S/S = F):
 - DPOC;
 - DDPNA within 30-days to demonstrate compliance with IC deficiencies;
 - \$20,000 Per Instance CMP (or per day CMP may be imposed, as long as the total amount exceeds \$20,000)

Nursing Homes cited for current non-compliance with Infection Control Deficiencies at the Harm Level (Level G, H, I), regardless of past history:

- Directed Plan of Correction, Discretionary Denial of Payment for New Admissions with 30 days to demonstrate compliance with Infection Control deficiencies. Enforcement imposed by CMS Location per current policy, but CMP imposed at highest amount option within the appropriate (non-Immediate Jeopardy) range in the CMP analytic tool.

Nursing Homes cited for current non-compliance with Infection Control Deficiencies at the Immediate Jeopardy Level (Level J, K, L) regardless of past history:

- In addition to the mandatory remedies of Temporary Manager or Termination, imposition of Directed Plan of Correction, Discretionary Denial of Payment for New Admissions, 15-days to demonstrate compliance with Infection Control deficiencies. Enforcement imposed by CMS Location per current policy, but CMP imposed at highest amount option within the appropriate (IJ) range in the CMP analytic tool.


To support implementation of CMS' enhanced enforcement, Residential Care Services (RCS) will add, as applicable, to their standard enforcement notices the required remedies listed above. Also, RCS will add to its standard back in substantial compliance notices, Discretionary Denial of Payment status (discontinued or did not go into effect).

CMS will be responsible for assessing and notification of CMP. CMS will utilize the CMP Analytic Tool in effect. It will not be imposing loss of the Nurse Aide Training and Competency Evaluation Program during survey suspension.

If providers disagree with any determination to impose remedies, providers may continue to requests informal dispute resolution and/or hearing. Appeal rights will continue to be communicated in enforcement notices.

If you have any questions, please contact Loretta Maestas, RCS Compliance Specialist, at (360) 725-2553 or Loretta.maestas@dshs.wa.gov.

Sincerely,



Candace Goehring, Director
Residential Care Services

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