



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

August 6, 2021

AL TSA: NH #2021-059
QSO-21-20-NH REMOVAL OF THE JULY 7, 2017 MEMO (S&C 17-37-NH)
FROM ITS GUIDANCE REPOSITORY

Dear Nursing Facility/Home Administrator:

The Omnibus Budget Reconciliation Act of 1987 (OBRA '87) modernized the survey process for long-term care facilities and provided a range of remedies that the Centers for Medicare and Medicaid Services (CMS) could impose to encourage a swift return to substantial compliance and sustained compliance, thus preventing harm to residents. Among the remedies authorized by OBRA '87 are civil money penalties (CMPs). CMS imposes two types of CMPs: Per Day and Per Instance.

On July 28, 2021, CMS released [QSO-21-20-NH](#) which announced the removal of S&C 17-37-NH from the guidance repository. The effect of excluding the memo from the CMS repository means that CMS Locations (formerly "Regional Offices") will no longer impose civil monetary penalties for prior noncompliance solely on a per-instance basis. The CMS agency will retain the discretion to impose a per-day penalty where appropriate to address specific circumstances of prior non-compliance. CMS operations will apply discretion, and any final notice of noncompliance will set forth the penalty, and the reason(s) for imposing per-instance or per-day penalties.

This letter supersedes Dear Administrator letter 017-022.

The effective date of the QSO-21-20-NH memo is July 16, 2021. For any questions about the CMS memo, please email: DNH_TriageTeam@cms.hhs.gov.

Thank you for your continued commitment to resident health and safety. If you have any questions, please contact Molly McClintock, Nursing Home Policy Program Manager, at (360) 742-6966 or molly.mcclintock@dshs.wa.gov.

Sincerely,

Mike Anbesse, Director
Residential Care Services

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