

Report on Medicare Compliance Volume 28, Number 9. March 11, 2019 In New Guidance on Immediate Jeopardy, CMS Adds Psychosocial Harm, Drops Culpability

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Surveyors who aren't confident that hospitals have effective measures to prevent infant abductions or that skilled nursing facilities (SNFs) address the "psychosocial outcomes" of a resident's sexual abuse may blow the "immediate jeopardy" whistle, which could lead to Medicare termination, according to CMS's March 5 guidance for state surveyors.

Those are two examples from CMS's wholesale changes to guidance for surveyors on immediate jeopardy, which is Appendix Q to the *State Operations Manual*. Hospitals, skilled nursing facilities (SNFs) and all other providers and suppliers will be judged by different standards in the new guidance when they are surveyed for compliance with the Medicare conditions of participation and other regulations. Surveyors act on CMS's behalf.

The guidance, which takes effect March 22, describes immediate jeopardy as noncompliance with federal health, safety and/or quality regulations that has "caused or created a likelihood that serious injury, harm, impairment or death to one or more [patients] would occur or recur; and immediate action is necessary to prevent the occurrence or recurrence of serious injury, harm, impairment or death." That replaces the previous definition of immediate jeopardy, which stated that "a potential for serious harm might constitute immediate jeopardy."

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