

## Focused Infection Control Surveys and CARES Act Supplemental Funding

In March, CMS began requiring state survey agencies to conduct focused infection control surveys in all nursing facilities. However, an average of only about 54.1% of facilities have been surveyed. CMS has informed states that completion of these surveys is a priority. States that have not completed 100% of their focused infection control nursing home surveys by July 31, 2020 must submit corrective action plans outlining how they will complete the remaining surveys within 30 days. Failure to meet this deadline or additional 30-day extensions could result in reductions of the state's CARES Act FY2021 funding. See chart below for more information.

### Survey Activities

Type of survey	What facilities are to be surveyed	When survey must be conducted	Additional conditions/requirements
Focused infection control surveys (on-site)	All facilities that have not yet received a focused infection control survey	By July 31, 2020	Up to 10% of CARES Act funding could be withheld for failure to conduct these surveys within 30 days. Subsequent 30-day extensions could result in additional reductions up to 5%
	<b>20% of all facilities;</b> Facilities selected based on: <ul style="list-style-type: none"> <li>• State discretion; OR</li> <li>• Additional data that identifies facility and community risks</li> </ul>	FY 2021	Up to 5% of CARES Act funding could be withheld for failure to conduct these surveys in a timely and a thorough manner
On-site surveys (in addition to focused infection control surveys)	<b>Facilities with outbreaks defined as:</b> <ul style="list-style-type: none"> <li>• Cumulative confirmed cases/bed capacity at 10% or greater; OR</li> <li>• Cumulative confirmed plus suspected cases/bed capacity at 20% or greater; OR</li> <li>• Ten or more deaths reported due to COVID-19</li> </ul>	Within 30 days of memo dated June 1, 2020	Up to 5% of CARES Act funding could be withheld for failure to conduct these surveys in a timely and thorough manner
On-site surveys (in addition to focused infection control surveys)	<b>Facilities with:</b> <ul style="list-style-type: none"> <li>• 3 or more new suspected and confirmed cases since the last National Healthcare Safety Network COVID-19 report; OR</li> <li>• 1 confirmed resident case if facility was previously COVID-19 free</li> </ul>	Within 3-5 days of identification	Up to 5% of CARES Act funding could be withheld for failure to conduct these surveys in a timely and thorough manner
More "routine" surveys: <ul style="list-style-type: none"> <li>• Complaint investigations;</li> <li>• Revisit surveys;</li> <li>• Recertification surveys</li> </ul>	<b>Facilities:</b> <ul style="list-style-type: none"> <li>• With complaints triaged as Non-Immediate Jeopardy (IJ)-High (to receive complaint investigation)</li> <li>• With removed IJ but continued non-compliance (to receive revisit survey)</li> <li>• Special Focus Facilities (SFFs) and SFF candidates; nursing homes and ICF/IID greater than 15 months (to receive recertification survey)</li> </ul> <b>Priority to be given to facilities with a history of noncompliance or allegations of noncompliance for the following:</b> <ul style="list-style-type: none"> <li>• Abuse or neglect</li> <li>• Infection control</li> <li>• Violations of transfer/discharge requirements</li> <li>• Insufficient staffing or competency</li> <li>• Other quality of care issues</li> </ul>	<ul style="list-style-type: none"> <li>• When a state has entered phase 3;</li> </ul> OR <ul style="list-style-type: none"> <li>• Earlier at state discretion</li> </ul>	

## Enhanced Enforcement for Infection Control Deficiencies



Since March, CMS has suspended enforcement on all deficiencies except for Immediate Jeopardy deficiencies. Now it is expanding enforcement to “improve accountability and sustained compliance” by imposing some type of enforcement measure on deficiencies at lower levels of scope and severity.

Scope/ Severity of Deficiency	Past non-compliance required?	Imposition of Directed Plan of Correction	Imposition of Denial of Payment	Imposition of Civil Monetary penalty (CMP)
D, E	No	Yes	No	No
F	No	Yes	Discretionary. Will not be imposed if facility comes back into compliance within 45 days	No
D, E	Yes – once in last year (or last standard survey)	Yes	Discretionary. Will not be imposed if facility comes back into compliance within 45 days	Discretionary. Up to \$5000 Per Instance CMP
F	Yes – once in last year (or last standard survey)	Yes	Discretionary. Will not be imposed if facility comes back into compliance within 45 days	Yes. \$10,000 Per Instance CMP
D, E	Yes – twice or more in last 2 years (or twice since second to last standard survey)	Yes	Discretionary. Will not be imposed if facility comes back into compliance within 30 days	Yes. \$15,000 Per Instance CMP (or per day if total amount is greater than \$15,000)
F	Yes – twice or more in last 2 years (or twice since second to last standard survey)	Yes	Discretionary. Will not be imposed if facility comes back into compliance within 30 days	Yes. \$20,000 Per Instance CMP (or per day if total amount is greater than \$20,000)
G, H, I	No	Yes	Discretionary. Will not be imposed if facility comes back into compliance within 30 days	Yes. Imposed at highest amount option for Non-Immediate Jeopardy
J, K, L Note: Temporary Manager or Termination are mandatory remedies if IJ is not based.	No	Yes	Discretionary. Will not be imposed if facility comes back into compliance within 15 days	Yes. Imposed at highest amount option for Immediate Jeopardy