

Immediate Jeopardy – The CMS Process and Removal Plan

CMS Appendix Q - Core Guidelines for Determining Immediate Jeopardy (Rev. 187, Issued: 03-06-19)

The Centers for Medicare and Medicaid Services (CMS) has issued new guidance clarifying the immediate jeopardy (IJ) survey and enforcement process. The changes apply to and impact all provider types. Harm does not have occur; only the likelihood of harm to a patient needs to be present.

Major Changes:

- 1) The three (3) requirements that must be answered by the survey team are:
 - a. Non-compliance with a specific regulation or standard in the CoP's/CfC's;
 - b. Seriousness which includes likelihood;
 - c. Need for Immediate Action.
- 2) Definitions and concepts that have been changed, clarified, removed or added:
 - a. Immediate Jeopardy was clarified.
 - b. Need for Immediate Action replaced Immediacy.
 - c. Culpability was removed.
 - d. "Reasonable Person" concept was added for patients who are not competent/able.
 - e. Removal Plan replaced Plan of Correction.
 - f. Threshold of Seriousness now includes the **LIKELIHOOD** of harm / Risk of Harm.
 - g. Causation does not have to be proven and Factors do not have to be documented.
 - h. Concepts of Seriousness, Likelihood and Causation have been clarified.
- 3) The categories of harm / likelihood of harm include:
 - a. Physical, mental, **psychosocial**
- 4) The survey team **MUST** complete a preliminary IJ template that includes identification of the specific noncompliance, threshold of seriousness and need for immediate action, and leave this document with the provider before the survey team departs.
- 5) A Removal Plan must be developed instead of a Plan of Correction.
- 6) The Survey Team may depart the organization with the Immediate Jeopardy noncompliance still in place – the removal plan must be approved by RO. (A survey team WILL return to survey).
- 7) Immediate Jeopardy can only be removed through an on-site survey where the team validates that the removal plan was fully implemented, and that CMS/RO can be reasonably assured that compliance can be sustained.
- 8) Removal Plans must include:
 - a. How facility will ensure harm will not occur or recur;
 - b. Date of implementation – planned implementation (*actions do not need fully resolved prior to the survey team exiting the organization*);
 - c. Identify those recipients who have suffered or are likely to suffer, a serious adverse outcome as a result of the noncompliance; and
 - d. Specify the action the entity will take to alter the process or system failure to prevent a serious adverse outcome from occurring or recurring, and when the action will be complete.

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Complete **ONE FORM FOR EACH** identified area of Noncompliance with Immediate Jeopardy

Part A – REPORT OF NON-COMPLIANCE SUMMARY

List Specific Noncompliance Identified by Survey Team

(Transcribe from Surveyor Template Provided describing the Immediate Jeopardy Situation)

Identified Condition, Standard, Element (i.e. – Tag A001): _____

Deficiency Summary: _____

List the Threshold of Seriousness that was Identified

(Transcribe from Surveyor Template Provided describing the Threshold or Level of Seriousness that was Identified)

Harm (serious injury, serious harm, serious impairment): _____

Death: _____ Date of Death: _____

Likelihood of Harm (risk): _____

List the Need for Immediate Action Identified by Survey Team

(Transcribe from Surveyor Template Provided describing the Need for Immediate Action)

Document Survey Team explanation: _____

Date Facility was Notified of Immediate Jeopardy

(List the Date the Facility received the Surveyor Template placing the organization in an Immediate Jeopardy situation)

Survey Date: _____ Date Notified of Immediate Jeopardy: _____

Process Involved:

(Describe the process involved in the immediate Jeopardy situation)

Patient / Resident Involved (MRN# Only):

(Identify the Patient / Patients involved by record number or other internal identifier)

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Staff Involved:

(Identify staff involved – if known)

Area Involved:

(List areas involved – if known)

Find Appendix Q – Immediate Jeopardy at: https://www.cms.gov/Regulations-and-guidance/Guidance/Manuals/downloads/som107ap_q_immedjeopardy.pdf

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Part B – REMOVAL PLAN

Date Notified of Immediate Jeopardy:

(List date survey team notified facility)

Date Removal Plan Developed:*(List Date Plan was developed)* _____

Date Removal Plan Initiated: *(List date Plan will be initiated)* _____

Date Removal Plan Fully Implemented or Planned to be Fully Implemented: _____

(List Date plan is expected to be fully implemented or completed)

The entity's removal plan must: Identify those who have suffered, or are likely to suffer, a serious adverse outcome as a result of the noncompliance *(List patients who were involved by patient type/medical record number) or (list patient populations who are vulnerable or may be impacted by the noncompliance)* **Never Use Names**

(List either patients or patient populations at risk of harm or that was harmed) _____

Specify the action the entity will take to alter the process or system failure to prevent a serious adverse outcome from occurring or recurring, and when the action will be complete or was taken. *(give detailed steps that will be taken, when it will be taken, who is responsible and how actions will be monitored)*

Process / System Involved:

(List processes or systems involved that will be improved) _____

Factors Involved: ____ Policy ____ Equipment ____ Human ____ Environment ____ Other

List Other: *(Identify the factors involved in the risk or harm, harm or process identified)* _____

Action(s) Taken / Planned to be Taken: *(List actions that plan to be or has been taken)* _____

Date Action(s) Taken / Planned to be Taken: *(Provide the dates planned for action)* _____

Staff Education Plan *(must begin immediately and capture staff prior to starting their next shift):*

Who: _____ When: _____ What: _____

Mode of Education: () memo () daily huddle () Staff Mtg () CBL () Other - _____

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Monitoring of Implemented Action(s):

What will be monitored - *(Describe what exactly will be monitored)*

How Long will it be monitored - *(Describe how long the monitoring will occur)*

Who / What Committee will receive reports - *(Describe the reporting structure for monitoring)*

What is the plan if the action does not meet expectations - *(How are outliers handled?)*

Assigned Responsible Staff: *(Manager/Director)*

Assigned Executive Leader: *(C Suite Member)*

Removal Plan Approved by (State Agency / Regional Office): ___ Yes ___ No Date:

Immediate Jeopardy Removed On: *(as SA/RO determines)*

RCA: ___ Yes ___ No

Governing Body Acknowledgement: *(Board must acknowledge Plan)* _____ Date:

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