



**Center for Clinical Standards and Quality/Survey & Certification Group**

**Ref: S&C: 16-11-ALL**

**DATE:** March 11, 2016

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** Exit Conferences - Sharing Specific Regulatory References or Tags

**Memorandum Summary**

- **Advance Guidance – Procedures for Conducting the Exit Conference:** The Centers for Medicare & Medicaid Services (CMS) is clarifying guidance to surveyors regarding the procedures for conducting the exit conference in the review of compliance with Medicare or Medicaid Conditions of Participation, Conditions for Coverage, and Requirements for Participation.
- **Review Exit Conference Procedures:** Please review with surveyors the exit conference procedures for conducting the federal surveys to ensure consistency of this process across States.

**Background**

The CMS has received questions regarding what degree of specificity surveyors should give during the Exit Conference to Medicare/Medicaid providers and suppliers regarding deficiencies found during the conduct of federal surveys. This policy memorandum is relevant to all surveyors conducting Federal surveys and for all types of Federal surveys. To address these questions and provide additional clarity and ensure uniformity in the survey procedures, CMS has revised the State Operations Manual (SOM), Chapters 2 and 5, and Appendix P. A list of all revised Sections can be found at the end of this policy memorandum. In the next few months, CMS will re-issue this memorandum to include other affected Appendices (e.g., Appendix I)

The Exit Conference during the onsite survey is both a courtesy to the provider and a way to expedite the provider's planning ahead of the formal receipt of the survey findings in the Form CMS-2567, Statement of Deficiencies. The purpose of the Exit Conference is to informally communicate preliminary survey team findings and provide an opportunity for the exchange of information with the provider's or supplier's administrator, designee or other invited staff. The findings or information conveyed at the Exit Conference are preliminary in nature and are subject to change pursuant to the State and CMS supervisory review processes. Additionally, an Exit Conference is not always guaranteed, as is noted in section 2724 of the SOM.

### **Long Term Care (LTC) Providers** (Nursing Homes)

For LTC providers, CMS has invested considerable effort to add to the SOM more explanations and resource material under many deficiency tag codes that can be of particular use to a facility in understanding relevant deficiencies and preparing remedial action. If the provider asks for the specific regulatory basis or the specific tag code, the surveyors should generally provide this information (except as noted below), but must always caution the facility that such coding classifications are preliminary and are provided only to help the provider gain more insight into the issues through the interpretive guidance. If the facility does not specifically ask for the regulatory basis or tag, the survey team may use its own judgment in determining whether this additional information would provide additional insight for the facility.

However, if the survey team is still deliberating which tags will be most pertinent, the survey team must not speculate at the exit conference as to the specific tag coding that will be applied. For example, the team may still be deliberating whether the finding was a care planning deficiency or staff training deficiency. Similarly, the team may believe that additional consultation should occur with other State personnel (e.g., a pharmacist) before a specific tag number is assigned to the deficiency finding. In these cases, the survey team should describe the general area of non-compliance without identifying a specific tag code. This is a judgment to be made by the survey team onsite, so in preparation for the exit conference the team should deliberate as to the degree of detail that will be appropriate. This is a survey-specific decision based on the evidence gathered.

As described below, States must follow the federal process. State licensure laws do not override the procedures outlined in the federal survey process. *States are not permitted to have blanket policies that differ from the policy described in this section. For example, States may not require surveyors to always provide certain information during the Exit conference.*

Under no circumstances, however, would the surveyors provide the Scope and Severity of a given deficiency finding (unless it is an immediate jeopardy), as such finer degree of possible detail should await supervisory review. Instead, survey teams may describe the general seriousness (e.g., harm) or urgency that, in the preliminary view of the survey team, a particular deficiency may pose to the well-being of residents. If a provider asks whether the noncompliance is isolated, pattern, or widespread, the surveyor should respond with the facts (i.e., noncompliance was found affecting X number of residents).

### **Non-Long Term Care Providers and Suppliers**

For non-LTC providers and suppliers, if the provider/supplier asks for the specific regulatory basis for the noncompliance findings, the surveyors should generally provide the regulatory grouping to the extent that the team is not still deliberating which part of the regulation is most pertinent. Consistent with existing CMS policy, the survey team should avoid identifying the specific tags, as the tag codes often identify the Condition- or Standard-level classification for most non-LTC deficiencies. Additionally such specific details should wait supervisory review. This has been CMS' long-standing policy, and we will continue this policy for non-LTC providers and suppliers.

### **Clinical Laboratories (CLIA)**

For laboratories, given the complexity of the regulations and nature of the survey, the surveyors must indicate to the laboratory that the specific regulatory reference will be found in the Form CMS-2567 report that will be issued to them. The laboratory is informed that the information discussed in the exit interview is preliminary and the lab management will have an opportunity at the exit interview to talk in general about the issues that were found.

### **Life-Safety Code (LSC)**

For LSC surveys, the survey team may follow the procedures for either non-LTC or LTC, depending on the degree to which, in the judgment of the team, the tag codes are important in helping the provider/supplier to understand the nature and location of the deficiency, and the corrective actions that would be necessary. Facility representatives are typically invited to accompany life safety surveyors during building tours, to improve familiarity with preliminary findings and exit conference proceedings.

### **Additional Considerations**

We believe that the attached changes in the SOM will provide additional guidance for surveyors about what to communicate regarding the deficiency findings and create a common set of expectations for States and providers/suppliers. There are two related considerations described below that provide additional context for these changes.

First, the integrity of the State and CMS post-survey quality review process is central to having well-supported, evidenced-based deficiency findings that appropriately establish the level of harm or potential for harm to the patient/resident. CMS will evaluate this policy on an ongoing basis. If, we find that providing this level of detail undermines that process or results in providers/suppliers trying to unduly pressure surveyors, or influence the objectivity and fairness of the survey process, we will re-evaluate the policy.

This policy memorandum also clarifies that States must not leave draft CMS-2567 forms onsite before they are finalized. This type of activity undermines the survey and certification process by shortening the time for the investigation and limiting the quality assurance process for the review of the CMS-2567 forms.

States are required to follow the federal survey process as written in the SOM. States are not permitted to establish additional processes for the federal surveys (such as conducting a “pre-exit conference” which provides deficiency information that the federal exit conference prohibits). For questions related to additional processes, States must consult with their CMS Regional Office. These actions would be in violation of the 1864 Agreement (i.e., Section 1864 of the Social Security Act) which provides CMS with the authority to prescribe the survey process to be followed by the States in their review of federal Medicare/Medicaid requirements. Article II, A.1.(c) of the 1864 Agreement specifies the functions to be performed by the State. The State is “responsible for surveying for the purpose of certifying to the Secretary the compliance or non-

compliance of providers and suppliers of services and resurveying such entities, at such times and manner as the Secretary may direct."

**Contact:** We would ask that States share this memorandum with all surveyors and review the Exit Conference procedures with them. Any questions on this memo can be sent to [DNH\\_TriageTeam@cms.hhs.gov](mailto:DNH_TriageTeam@cms.hhs.gov).

**Effective Date:** Immediately. This policy should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

/s/  
Thomas E. Hamilton

Attachment:  
SOM Revisions  
Chapter 2, Sections 2724 and 2727  
Chapter 5, Sections 5080.2, 5300.5, and 5340  
Appendix P, Task 7

cc: Survey and Certification Regional Office Management