

## Sequestration Adjustments to Survey Process

CMS recently issued a memorandum to State Survey Agency (SA) Directors announcing changes made to its survey and certification (S&C) operations as a result of the Balanced Budget and Emergency Deficit Control Act, as amended, and popularly known as “sNu” (S&C: 13-23). As a part of CMS’s efficiency and effectiveness initiative, certain adjustments were made to the survey policies and process to reduce expenses while maintaining its priorities of protection and health care quality. A list of the policy and operational adjustments that affect nursing homes are described below:

### 1. Onsite Revisit Surveys.

- a. The SA must obtain CMS Regional Office (RO) approval before conducting:
  - i. Any second onsite revisit after the first revisit found that the provider was not in substantial compliance;
  - ii. A third or fourth onsite revisit (when permitted by CMS policy) when provider was found not to be in substantial compliance at the prior revisit.
- b. The SA must inform affected providers of the longer wait times for revisits.

### 2. Special Focus Facility (SFF) Nursing Homes.

- a. For those facilities that have been on the SFF list for more than 18 months and failed to improve, a final “last chance” onsite survey will be scheduled. This survey may coincide with the next planned onsite survey or be advanced, depending on the extent to which the facility has failed to show significant progress. If appropriate improvement is not shown during the survey or unless there is a major new development that is likely to result in timely and enduring improvement, as determined by CMS, a Medicare termination notice may be issued.
- b. The SA will review the progress of the facilities that have been on the SFF list for more than 12 months and, with CMS, plan further action.
- c. Until further notice, the SA will not select a replacement SFF nursing home when a current SFF nursing home has been terminated or removed from the SFF list.

### 3. Life Safety Code (LSC).

- a. The SA has the option to use a Short Form survey to assess compliance with key life-safety code requirements for certain nursing homes. CMS will provide the SA with a list of all nursing homes that qualify for the Short Form survey. In order to qualify, a nursing home must:
  - i. Be fully sprinklered,
  - ii. Generally not have any waivers or use the Fire Safety Evaluation System-Health Care (FSES/HC) to be certified;
  - iii. Have not been cited for K0062 Sprinkler Maintenance, K0054 Smoke Detector Maintenance, K0050 Fire Drills, K0104 Smoke Barriers and 0051 Fire Alarms in the last 2 years; and
  - iv. Not have more than 2

survey cycles since the last Long Form survey was conducted.

b. States electing the Short Form survey option must provide some basic information to CMS Central Office to evaluate the results.

c. Certain targeting and quality controls will apply to the use of the Short Form survey option.

The Health Care attorneys at Abrams Fensterman are experienced in all aspects of health care compliance. If you have any questions pertaining to health care regulations or nursing home surveillance and certification, please call any Abrams Fensterman health care attorney at (516) 328-2300.