
CMS Manual System

Pub. 100-07 State Operations Provider Certification

Department of Health &
Human Services (DHHS)
Centers for Medicare &
Medicaid Services (CMS)

Transmittal 126

Date: November 21, 2014

SUBJECT: Revisions to State Operations Manual (SOM), Chapter 4 – “Program Administration and Fiscal Management”

I. SUMMARY OF CHANGES: SOM Chapter 4 Section 4132.1E - Waiver of Program Prohibition has been revised to incorporate information consistent with CFR 483.151 (3)(c)(1), and Section 4542.2 – SA Expenses for Training of SA Personnel has been revised to incorporate information consistent with the Social Security Act 1864(b).

NEW/REVISED MATERIAL - EFFECTIVE DATE: November 21, 2014

IMPLEMENTATION DATE: November 21, 2014

Disclaimer for manual changes only: The revision date and transmittal number apply to the red italicized material only. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual not updated.)
(R = REVISED, N = NEW, D = DELETED) – (Only One Per Row.)

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	4/4132.1E - Waiver of Program Prohibition
R	4/4542.2 - SA Expenses for Training of SA Personnel

III. FUNDING: No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

IV. ATTACHMENTS:

	Business Requirements
X	Manual Instruction
	Confidential Requirements
	One-Time Notification
	One-Time Notification –Confidential
	Recurring Update Notification

*Unless otherwise specified, the effective date is the date of service.

4132.1E - Waiver of Program Prohibition

(Rev.126, Issued: 11-21-14, Effective: 11-21-14, Implementation: 11-21-14)

A facility may request that CMS waive the disapproval of its nurse aide training program when the facility has been assessed a civil money penalty of no less than \$5,000 if the civil money penalty was not related to the quality of care furnished to residents in the facility.

While the waivers should be submitted to the State, CMS will make the final determination on a case by case basis after considering the recommendation and facts of the case as provided by the State.

Duration of Waiver - A waiver may not exceed 2 years, but must be withdrawn earlier if the facility is subsequently found to no longer meet the waiver criteria. If 2-year disapproval periods overlap, any non-waived disapproval in the earlier period will control waiver rights in the second until the two periods no longer overlap. Below are examples describing the effect of a series of survey findings on a facility's ability to have a waiver.

EXAMPLE:

Year 1:

A survey conducted at Facility X identifies substandard quality of care. The finding of substandard quality of care results in nurse aide training and competency evaluation program disapproval for 2 years. The facility requests and is granted a waiver after the State has confirmed that the facility has removed the substandard quality of care. The waiver may not exceed 2 years.

Year 2:

The survey of Facility X identifies substandard quality of care. Based on this current finding of substandard quality of care, the facility loses its existing waiver. This nurse aide training and competency evaluation program disapproval, based on this survey, is effective for 2 years. Additionally, the facility forfeits the waiver granted in year 1 due to its inability to continue to meet waiver criteria at E.1.b. (i.e., to be free of deficiencies which constitute substandard quality of care).

Year 3:

The survey of Facility X identifies deficiencies that do not constitute substandard quality of care, but result in the imposition of denial of payment for new admissions. The imposition of this remedy results in nurse aide training and competency evaluation program disapproval for 2 years. The facility requests and is granted a waiver. The waiver may not exceed 2 years. However, since the facility is currently operating under a nurse aide training and competency evaluation program disapproval for 2 years, based on its year two survey, the waiver resulting from this current survey

will not apply until the remainder of the disapproval period (which overlaps with part of the waiver period) is satisfied.

4542.2 - SA Expenses for Training of SA Personnel

(Rev.126, Issued: 11-21-14, Effective: 11-21-14, Implementation: 11-21-14)

The cost of training personnel engaged in title XVIII and title XIX survey activities is chargeable to the State survey program when the training is related to the State's responsibilities for survey and certification activities.

Training includes attendance at job-related meetings, conferences, seminars, workshops, or training courses. Training which is considered related to the SA's responsibilities includes attendance at meetings, courses, etc., where the subject matter concerns one or more areas in the certification requirements related to appraising the activities of a health facility. This may include areas such as medical records, dietary services, infection control, etc. Other training considered related to the SA's responsibilities includes attendance at professional meetings that enable individuals in the various health disciplines who are engaged in titles XVIII and XIX to stay abreast of pertinent developments affecting the inspection and approval of health facilities. Examples of professional meetings at which attendance could possibly be funded, subject to the considerations outlined here and in succeeding paragraphs, are the annual meetings of the *Association of Health Facility Survey Agencies (AHFSA)*, American Hospital Association, American Public Health Association, American Dietetic Association, and similar national or regional organizations.