



Center for Clinical Standards and Quality

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DATE: **October 31, 2025**

TO: State Survey Agency Directors

FROM: Directors, Quality, Safety & Oversight Group (QSOG) and Survey & Operations Group (SOG)

SUBJECT: **REVISED:** Contingency Plans – State Survey & Certification Activities in the Event of Federal Government Shutdown

Memo Revision Information:

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Memorandum Summary

Pursuant to the federal government shutdown, we are doing our utmost to:

- Protect Medicare and Medicaid beneficiaries against immediate dangers to life and health, and
- Prevent providers and suppliers from experiencing interruptions that would threaten their ability to provide healthcare services that are vital to Medicare and Medicaid beneficiaries.

In this memorandum we identify functions that (a) are not affected by a Federal shutdown, (b) excepted functions that are to be continued in the event of a shutdown (also referred to as “essential functions”), and (c) other activities that are directly affected, are not legally authorized to be performed, and therefore should not be operational during a Federal shutdown.

The following guidance is intended to enable certain essential survey & certification functions by State survey agencies (SAs) during the Federal Government shutdown.

A. Survey and Certification Activities Not Affected by a Federal Government Shutdown

1. **CLIA - Clinical Laboratory Improvement Amendments:** CLIA Survey & Certification functions are funded through user fees and therefore, are not directly affected by the Federal Government shutdown.
2. **CMS or State Vendor Contracts Awarded on or before September 30th, 2025**
Performance under contracts awarded and funded, on or before September 30, 2025, including any exercised option year to an existing contract, will not be impacted by the

shutdown. However, if a contractor's current contract funding expires and/or the option period is not exercised, the contractor shall refer to their contract's terms and conditions related to stop work due to the availability of funds and reach out to their Government Contracting Official. For CMS contracts, please contact your Contracting Officer (CO), the Contracting Officer Representative (COR), and the contacts below for further guidance. When this funding situation changes, a CMS Contracting Officer will advise the contractor as soon as possible. Due to the furlough status of government personnel, the Contracting Officer may be different from the individual assigned to the respective contract(s). Regardless of funding, contractors may not perform federal work that is otherwise prohibited as non-excepted activities. For specific questions related to state contracts using prior federal funding, please reach out to your CMS Location Point of Contact.

3. **State-funded surveys:** The lapse in appropriations does not impact state work for those states that are completing licensure surveys. However, those licensure surveys may not be assumed to count as federal surveys during the period of the lapse in appropriations.
4. **Surveys of Medicaid-only facilities:** States may conduct surveys of Medicaid-only provider types during the shut-down as the 1st quarter of Medicaid funding will not be impacted. Medicaid funding may remain available and is considered mandatory funding. We advise SA's to maintain communication with their State Medicaid agency regarding the availability of Medicaid funds for Medicaid-only survey functions and other related activities (e.g., Nurse Aide Training and Competency Evaluation Programs (NATCEP)).
5. **Hospice Surveys funded through the Consolidated Appropriations Act (CAA) of 2021:** Funding provided by - the CAA is also considered mandatory and is not impacted by the Federal Government shutdown. If your State receives CAA funding to complete hospice survey and certification work, those activities may continue.

B. Excepted Medicare Functions During the Shutdown

During a lapse in appropriation, it is not legal for CMS or States (acting on CMS' behalf) to carry out federal survey and certification activities beyond those deemed to be "excepted activities". Excepted activities are those related to the safety of human life or protection of property. If States carry out non-excepted functions under the auspices of the State Government, they should not represent these as Federal Survey and Certification activities.

We consider the following State S&C Medicare activities to be considered Excepted Work as they are essential and should continue during a federal government shutdown to ensure basic health and safety protections, subject to the terms outlined below.

1. **Complaint Investigations and Facility Reported Incidents Alleging Harm:** Complaints that are triaged as credible allegations of immediate jeopardy (IJ) or harm to an individual should continue to be assessed and investigated according to standard CMS protocols except that, for the duration of any Federal Government shutdown, it is not necessary for SA's to obtain prior CMS Location approval to conduct a complaint investigation for a deemed provider or for an EMTALA survey (approval is normally required). To assess and follow-up according to standard CMS protocols means that the State is permitted to issue the Form CMS 2567 to the provider, and conduct the

necessary communication and revisits to ensure that those deficiencies are addressed immediately, with no further harm to patients or residents.

2. ***Certain Federal Enforcement Actions:*** Enforcement actions that result from surveys noted in the above paragraph (1) should continue to be imposed if the findings indicate immediate jeopardy or actual harm. States should continue to process enforcement and transfer cases that meet the Immediate Imposition of Federal Remedies requirements, as these represent resident harm. Any questions or requests related to Medicare enforcement actions should be directed to the CMS contacts noted at the end of this memorandum.
3. ***Revisit Surveys Approved by Exception and Necessary to Prevent Termination:*** SA's may request approval to conduct a revisit when:
 - (a) A provider or supplier has alleged compliance with CMS requirements (pursuant to a prior determination of noncompliance) and
 - (b) The revisit survey is necessary to determine compliance and prevent the scheduled Medicare termination of a provider or supplier **or**
 - (c) Prevent a statutorily-mandated (three-month) denial of payment for new admissions. *If a discretionary denial of payment has been in effect, the revisit may occur provided it meets the same timeframe as allowed for a mandatory DPNA.*

Requests for any such exception shall be sent to the CMS contact noted at the end of this memorandum. Revisits covered under the exceptions noted above (e.g., CLIA, hospice, Medicaid-only) should follow normal CMS protocols.

4. ***Immediate Threats to Life or Safety (Emergencies and Natural Disasters):*** SAs should take action to prevent or mitigate any other immediate threats to the life or safety of a beneficiary even if the situation does not fit into any of the preceding categories, such as survey and certification activities that may be necessary during a declared public health emergency to prevent injury or harm to beneficiaries. CMS Location operations in this situation are expected to continue (e.g., health care facility emergency reporting, waiver consideration (if applicable)).
5. ***Voluntary Nursing Home Closure:*** If a nursing home provider voluntarily closes, the routine monitoring and oversight by the SA to ensure the orderly and safe relocation of nursing home residents may continue.
6. ***Orderly Shutdown of Other Tasks:*** SAs may complete other tasks begun prior to September 30th, 2025, if such completion is necessary to ensure an orderly shutdown, provided that the tasks can be accomplished within four hours of CMS notification to the SA of a federal shutdown (such as completing the upload of completed surveys to the ASPEN and iQIES information system). Note that surveys completed before the Federal Government shutdown that do not fit into the above noted categories, for which the written survey report Form CMS-2567) has not been completed prior to the orderly shutdown, should be held and not issued, and will generally remain valid if completed after the shutdown. We plan to issue special instructions for completion of such reporting.

States should maintain the infrastructure capability to support the complaint investigations, enforcement, and survey information system entries for Medicare activities authorized in this

communication. This must include the ability to receive all complaints and respond to those complaints that allege immediate jeopardy or actual harm to individuals, and to enter information into the ASPEN & iQIES information system.

C. Activities Prohibited During a Federal Government Shutdown

Survey & Certification functions normally conducted on behalf of CMS that do not fall into one of the above categories shall not be performed during the period of a Federal Government shutdown. Examples of Medicare activities that shall not be continued during such time include:

1. ***Standard Surveys:*** No Medicare-funded recertification surveys shall be performed. This includes statutorily mandated surveys (NHs, HHAs), with the exception of hospice CAA-funded surveys, mentioned above. Any processing of recently completed surveys where immediate jeopardy or patient/resident harm has not been identified should be held until funding is restored.
2. ***Certain Revisit Surveys:*** The only authorized and excepted revisits are those necessary to 1) ensure that immediate jeopardy or actual patient/resident harm has been addressed, 2) to prevent termination of Medicare participation within 45 days of the termination date or 3) prevent mandatory denial of payment for new admissions within 15 days of imposition. A revisit for any other reason, is not authorized or excepted. We will issue instructions on how those situations will be handled once the shutdown ends. SAs may remove any enforcement remedies, as appropriate, as a result of an excepted revisit.
3. ***Initial Surveys:*** No Medicare initial surveys shall be performed, unless otherwise permitted with the allowed activities described above in Section A. For example, Medicaid-only surveys may continue upon consultation with the State Medicaid Agency.
4. ***Initial Certification (including via Deemed Status):*** States shall not conduct any initial surveys or take any action on initial certification kits (e.g., compiling the documentation for an initial certification kit) for applicants to participate in Medicare who seek to demonstrate compliance via accreditation under a CMS-approved Medicare accreditation program.
5. ***Certain Complaint Investigations:*** No Medicare complaint investigations should be performed, except those alleging immediate jeopardy or actual harm to individuals, as noted in this memorandum or as permitted in Section A above. All intakes with federal allegations are still required to be entered into the federal information systems.
6. ***MDS or OASIS:*** No minimum data set (MDS) or OASIS activities should be conducted except those necessary to maintain provider reporting.
7. ***Informal Dispute Resolutions (IDRs):*** No IDRs or Independent IDRs should be conducted unless they are pursuant to the excepted complaint investigations noted above in section B of this memorandum for which there is an immediate adverse action that will be taken against the facility or provider (i.e., termination of the provider agreement) during the period of the shutdown.

8. ***Trainings on the Quality Safety and Education Portal and the Surveyor Minimum Qualifications Test (SMQT):*** *Any training activity for which there is an expectation of federal reimbursement is prohibited until funding is restored. However, surveyors may take training, including required trainings and pre-requisites on QSEP, as there is no direct federal reimbursement for those activities. Surveyors may take the SMQT test, as it supports the state's overall health and safety oversight capacity and does not incur a direct federal expense.*
9. ***Processing of Certification Actions:*** Routine Medicare provider certification activities such as initial certifications, changes of ownership, and changes of location are not considered excepted activities and will not be completed until there is a restoration of funding. SAs should check with their State Medicaid Agency regarding the status of routine Medicaid certification activities.
10. ***New CMP-Funded Improvement Projects:*** No new improvement projects funded by collected civil monetary penalty funds should be implemented unless approval has already been granted by the CMS Location. Projects already approved by CMS are not affected and may continue, since such projects require no further federal action.

In the event of a Federal Government shutdown that persists for more than a few weeks, CMS may communicate further instructions with regard to any special provisions that are appropriate for Survey and Certification activities.

CMS also expects that there will be additional guidance to address timelines impacted by the shutdown included in the State Performance Standards System (e.g., timelines related to selection of a new Special Focus Facility). If there are any specific questions, please direct them to your CMS Location Point of Contact listed below.

Further, States may not conduct work under Section C with the expectation that funding will become available.

F. CMS Contact Information for Survey & Certification

CMS has designated a limited number of individuals who will maintain communications with State Survey Agencies and will be able to take authoritative action with regard to Federal survey and enforcement activities. The CMS Survey & Operations Group Leadership points of contact are listed below. We expect additional communication with the States to address issues on an ongoing basis.

SOG Division Point of Contact:

CMS Northeast Division (Boston, New York Philadelphia): *Hyosim Seon Spada*, Hyosim.Seon-Spada@cms.hhs.gov

CMS Atlanta: *Dianna Wardlow-Dotter*, Dianna.Wardlow-Dotter@cms.hhs.gov

CMS Chicago: *Mutiu Okanlawon*, Mutiu.Okanlawon@cms.hhs.gov

CMS Kansas City/Denver: *Dianna Wardlow-Dotter*, Dianna.Wardlow-Dotter@cms.hhs.gov

CMS Dallas: *Marcus Foster*, Marcus.Foster@cms.hhs.gov

CMS Western Division (San Francisco/Seattle): *Renae Hill*, Renae.Hill@cms.hhs.gov

CMS Emergency Preparedness and Life Safety Code Division: *Martin Casey*,
Martin.Casey@cms.hhs.gov

We deeply regret the necessity to curtail Federal Survey & Certification functions. State licensure functions and State enforcement activities under State law are, of course, not constrained by any Federal Government shutdown.

Thank you for your patience during this time of uncertainty, and for your daily diligence in offering individuals the protections and quality assurance upon which they rely.

Questions regarding this communication should be sent to Karen Tritz, David Wright, Karen Hillman, and Melissa Daly at Karen.Tritz@cms.hhs.gov, David.Wright@cms.hhs.gov, Karen.Hillman@cms.hhs.gov, and Melissa.Daly@cms.hhs.gov, respectively.

Effective Date: 12:01 am October 1st, 2025, and enduring only so long as the federal government is in shutdown status. This policy should be communicated to all survey and certification staff, **their managers and the State/Regional Office training coordinators immediately.**

/s/

Karen L. Tritz

Director, Survey & Operations Group

/s/

David R. Wright

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