

IHANS ALERT NURSING HOMES

CMS has rescinded memorandum QSO-20-31-ALL, the Enhanced Enforcement for Infection Control Deficiencies, and replaced it with memorandum [QSO-23-10-NH \(PDF\)](#), revised guidance for Strengthened Enhanced Enforcement for Infection Control Deficiencies. This revised guidance strengthens enforcement efforts for noncompliance with infection control deficiencies. The enhanced enforcement actions are more stringent for infection control deficiencies that result in actual harm or immediate jeopardy to residents. In addition, the criteria for enhanced enforcement on infection control deficiencies that result in no resident harm has been expanded to include enforcement on non-compliance with Infection Prevention and Control (F880) combined with COVID-19 Vaccine Immunization Requirements for Residents and Staff (F887)

Revised Enhanced Enforcement for Infection Control Deficiencies

Non-compliance with deficiencies associated with Infection Control requirements will lead to the following enforcement remedies:

Non-compliance with both Infection Prevention and Control (F880) **concurrent** with COVID-19 Vaccine Immunization Requirements for Residents Staff (F887) requirements cited at Scope and Severity (S/S) Level 2 i.e., D, E, F (No Actual Harm with Potential for More Than Minimal Harm):

- Directed Plan of Correction that includes Root Cause Analyses and working with a Quality Improvement Organization or another qualified consultant- not affiliated with the facility or the facility's organization; and
- Discretionary Denial of Payment for New Admissions with a 30-day notice period to achieve substantial compliance.
- Enhanced Enforcement of F880 at S/S Level 2 is applicable when F887 is also cited at any level. Additional remedies may apply if F887 is cited at S/S Level 3 or 4, as per normal enforcement policy outlined in Chapter 7 of the State Operations Manual.

Non-compliance for Infection Prevention and Control (F880) cited at S/S Level 3 – i.e., G, H, I (Actual Harm):

- Directed Plan of Correction that includes Root Cause Analyses and working with a Quality Improvement Organization or hiring an Infection Control Consultant to develop and implement a corrective action plan; and
- Discretionary Denial of Payment for New Admissions with a 15-day notice period to achieve substantial compliance; and
- Civil Money Penalty imposed according to the CMP Analytic Tool with a ten percent increase adjustment.

Non-compliance for Infection Prevention and Control (F880) at S/S Level 4 – i.e., J, K, L (Immediate Jeopardy):

- Directed Plan of Correction that includes Root Cause Analyses and working with a Quality Improvement Organization or hiring an Infection Control Consultant to develop and implement a corrective action plan; and
- Discretionary Denial of Payment for New Admissions with a 15-day notice period to achieve substantial compliance; and
- Civil Money Penalty imposed according to the CMP Analytic Tool with a twenty percent increase adjustment.

Enforcement Cases

The strengthened Enhanced Enforcement for Infection Control deficiencies guidance outlined above will apply to any enforcement cases with a survey cycle start date on or after March 30, 2023.

Quality Improvement Organization Support

Quality Improvement Organizations have been strategically refocused to assist nursing homes in combating COVID-19 through such efforts as education and training, creating action plans based on infection control problem areas, and recommending steps to establish a strong infection control and surveillance program.

Nursing homes can locate the responsible QIO here: [Locate Your QIO | qioprogram.org](https://qioprogram.org)

Contact

Questions about the Long term care facility enforcement should be addressed to DNH_Enforcement@cms.hhs.gov.