



## CMS ISSUES NEW IMMEDIATE JEOPARDY GUIDELINES

For those providers and suppliers that are subject to survey in order to maintain their Medicare status (e.g., hospitals, ASCs, SNFs, home health agencies), CMS has published important revisions to its current survey guidelines. Specifically, In March 2019, CMS released revisions to Appendix Q of the CMS State Operations Manual. These changes are a significant revision to the immediate jeopardy guidelines (“IJ Guidelines”) that have not been updated since 2004. Immediate jeopardy occurs when CMS surveyors identify noncompliance that has caused or is likely to cause serious injury or harm and immediate action is necessary to prevent such harm. Providers/suppliers remain on immediate jeopardy until surveyors confirm, while onsite, that a removal plan has been effectively implemented. Immediate jeopardy findings can result in, among other things, additional government and accreditation surveys, civil monetary penalties, decrease in reimbursement and other sanctions.

The new IJ Guidelines are intended to provide more clarity as to when, and what evidence is required, to impose immediate jeopardy. Notably, (1) there must be likelihood, not just a potential, for harm and (2) psychological harm can be considered harm based upon a “reasonable person” test. The IJ Guidelines also discuss the removal of the immediate jeopardy including approval of the removal plan. Finally, there are new subparts that address additional immediate jeopardy requirements for long-term care facilities and clinical laboratories.

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Should you have any questions regarding these new IJ Guidelines, please contact a member of our [Health Care Practice Group](#) or the [Garfunkel Wild attorney](#) with whom you regularly work.

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