

R. 330.11001 Definitions

Rule 11001. As used in this part:

(a)

"Administrative or clinical advisor" means an additional remedy imposed upon a facility for the purpose of monitoring and mentoring the facility administrative staff or clinical staff or both through the period of corrective action.

(b)

"Category" means a grouping of remedies used to address and correct a certain level of deficiency.

(c)

"Civil money penalty" means a fiscal assessment amount which is within a range commensurate to the level of noncompliance, for example, immediate jeopardy or non-immediate jeopardy, and which is levied against nursing facilities for certain findings of noncompliance. A civil money penalty is determined by multiplying an amount, based upon the finding of noncompliance, by the number of days of noncompliance. A daily civil money penalty shall be assessed up to and including the day before the state medicaid agency or the health care financing administration determines that the facility is in substantial compliance or up to and including the day that the civil money penalty is no longer warranted.

(d)

"Date certain" means the last day of a specified time frame in which a nursing

facility is allowed to correct deficiencies, generally without the application of remedies. A date certain may be allowed at the state medicaid agency's discretion. A date certain shall not be allowed in cases involving an immediate-jeopardy situation or involving a poor-performer facility. If substantial compliance is not attained by the date certain, then the state medicaid agency shall impose 1 or more remedies after reviewing the determinations of the state survey agency.

(e)

"Deficiency" means a nursing facility's failure to meet any participation requirement as specified in section 1919 of the social security act of 1935, as amended, being 42 U.S.C. §1396r et seq. or in 42 C.F.R. §§483.5 to 485.75(1992).

(f)

"Department" means the Michigan department of community health (MDCH).

(g)

"HCFA" means the federal health care financing administration.

(h)

"Immediate jeopardy" means a situation in which the nursing facility's noncompliance with 1 or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

(i)

"Menu" means a grouping of remedy categories that takes into account facility history and the current level of nursing facility noncompliance or deficient practices.

(j)

"Needing early review" means a facility identified for possible immediate

imposition or recommendation of enforcement remedies by the state survey agency under its licensure authority.

(k)

"Noncompliance" means the presence of any deficiency that causes a nursing facility to not be in substantial compliance.

(l)

"Nursing facility" means a facility which provides long-term nursing care, which is enrolled in the states medicaid program, and which is not enrolled in the medicare program. The term excludes a facility owned by the state. The term includes a county medical care facility and a hospital long-term care unit if not enrolled in the medicare program.

(m)

"OBRA" means the omnibus budget reconciliation act of 1987, as amended, being Public Law 100-203, 101 Stat. 1.

(n)

"Plan of correction" means a plan accepted by the state survey agency that is mandatory for all deficiencies of scope and severity levels B through L on the remedy determination grid table 1 of this part, referred to in this part as the "quick reference chart." If a facility fails to obtain an accepted plan of correction, then the state medicaid agency shall impose remedies immediately.

(o)

"Poor performer" means a federally identified poor-performing nursing facility. The state medicaid agency shall not afford a poor performer an opportunity to correct deficiencies before remedies are imposed.

(p)

"Remedy" means a corrective action which is specified in federal or state law or

these rules and which is taken by the state survey agency or the state medicaid agency against a nursing facility for findings of deficiencies.

(q)

"Repeat deficiency" means a deficiency which is in the same regulatory grouping of requirements and which is found again at the next survey.

(r)

"Repeated noncompliance" means a finding of substandard quality of care based on 3 consecutive standard surveys [standard survey as stated in section 1919(g)(2)(A) of the social security act of 1935, 42 U.S.C. §1396r(g)(2)(A)] regardless of whether the exact tag number of deficiency was repeated or that the substance of a deficiency was repeated.

(s)

"State medicaid agency" means the Michigan department of community health, medical services administration.

(t)

"State survey agency" means the Michigan department of consumer and industry services (MDCIS).

(u)

"Substandard quality of care" or "SQC" means 1 or more deficiencies on the remedy determination grid in square f, h, i, j, k, or l of table 1 of this part that constitute any of the following related to participation requirements under 42 C.F.R. §483.13, resident behavior and facility practices, 42 C.F.R. §483.15, quality of life, or 42 C.F.R. §483.25, quality of care: (i) Immediate jeopardy to resident health or safety. (ii) A pattern of actual harm or widespread actual harm that is not immediate jeopardy. (iii) A widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm.

(i)

Immediate jeopardy to resident health or safety.

(ii)

A pattern of actual harm or widespread actual harm that is not immediate jeopardy.

(iii)

A widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm.

(v)

"Substantial compliance" means a facility that does not have deficiencies which impose any greater risk than a potential for minimal harm.