



Center for Clinical Standards and Quality

Admin Info: 23-06-NH

DATE: February 10, 2023

TO: State Survey Agency Directors

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

SUBJECT: State Operations Manual Chapter 5- Implementation Dates for Revised Guidance

Memorandum Summary

- **Implementation Dates for the Revised Chapter 5** – CMS expects the state survey agencies (SAs) to implement the revised timeframes for investigating nursing home complaints and facility reported incidents no later than October 1, 2023. State survey agencies are expected to enter all specified data by October 1, 2024.

Background:

On June 29, 2022, CMS revised the guidance in Chapter 5 of the State Operations Manual (SOM). See [QSO-22-19-NH](#). These revisions included changes to the maximum timeframes for investigating complaints and facility-reported incidents, and the expansion of data entry into the ASPEN Complaints/Incidents Tracking System (ACTS) (SOM Section 5060). With these changes, CMS sought to ensure that serious threats to residents' health and safety are investigated immediately and to improve the tracking of cases so that CMS and the state survey agencies could improve transparency in how allegations are managed. In QSO-22-19-NH, CMS noted that it would be establishing a target implementation date at a later time.

Discussion:

Given how these revisions to Chapter 5 would impact state operations, CMS recognizes that state survey agencies will need time to prepare for full implementation. For example, some state survey agencies may need to hire and train additional surveyors; some state survey agencies may need to also hire staff to enter data into ACTS, or make adjustments to their tracking and data systems to accommodate CMS' requirements. Since this may involve state employees and processes, the state survey agencies may need to request legislative and/or administrative approval for position authority, position development, recruitment and onboarding. In addition, due to suspending survey activities during the COVID-19 Public Health Emergency, the states are experiencing a backlog of surveys that need to be conducted. Therefore, CMS is expecting the state survey agencies to implement the following:

- No later than October 1, 2023- Implementation of the maximum investigation timeframes, including the development and implementation of policies and procedures for complaints and facility-reported incidents (SOM Sections 5075 and 5310.2).
- No later than October 1, 2024- Implementation of data entry requirements into ACTS (SOM Section 5060).

Please note that there is nothing that prohibits the state survey agencies from adopting and implementing these policies earlier.

CMS also revised other sections in Chapter 5 with the issuance of QSO-22-19-NH.

The following policies should have been implemented immediately:

- Sections 5075, 5075.1, 5075.2, 5075.3, 5075.4, 5075.8, and 5310.2, which describe the definitions for each priority
- Sections 5075.6 and 5330, which describe the SA reporting of suspected crimes to law enforcement.
- Section 5080.1, which provides guidance on the report to the complainant post-investigation, including avoiding the terms “substantiated/unsubstantiated”.
- Section 5310.1, which describes how State policies and procedures must be consistent with Federal requirements and the SOM.
- Section 5310.1, which directs the SAs to provide instructions to the facility and collect sufficient information from facilities for reported incidents.

Training related to the revisions to Chapter 5 of the SOM is available at the [Quality, Safety & Education Portal](#) (QSEP), under “Complaint and Incident Intake Triage Overview”.

Contact:

For questions or concerns relating to this memorandum, please contact your CMS Location.

Effective Date:

Please see above for information about implementation dates. Please communicate to all appropriate staff within 30 days.

/s/

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