



## Appendix Q: Guidelines for Determining Immediate Jeopardy<sup>1</sup>

This training is designed to provide an overview of Appendix Q: Guidelines for Determining Immediate Jeopardy.

## Learning Goals

At the conclusion of this training you will be able to:

- Define Immediate Jeopardy (IJ).
- Utilize Appendix Q to identify the 3 components of IJ.
- Articulate the basic steps which occur after an IJ is identified.

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This training is designed to provide a basic overview of Appendix Q: Guidelines for Determining Immediate Jeopardy.

## What is Immediate Jeopardy?

- “A situation in which provider’s noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.”
- Interpreted as a crisis situation which threatens the health and safety of individual(s).

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42 CFR Part 489.3 defines Immediate Jeopardy (IJ) as “A situation in which provider’s noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.” CMS interprets IJ as a crisis situation in which the health and safety of individual(s) are at risk.

## What is Appendix Q?

- Appendix Q: Guidelines for Determining Immediate Jeopardy

Applicable to all certified Medicare/Medicaid entities (excluding CLIA)

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Appendix Q of the State Operations Manual was designed by CMS to ensure IJ situations were accurately identified, thoroughly investigated and resolved as quickly as possible for all individuals receiving care or services from a certified Medicare/Medicaid entity (excluding CLIA). The primary goals of the IJ guidelines are to assist surveyors to identify and to prevent serious injury, harm, impairment or death. A complete copy of Appendix Q can be accessed from the Bureau of Facility Standards web site.

Components of IJ

- Harm
- Immediacy
- Culpability

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Appendix Q identifies the three components of IJ as harm, immediacy and culpability.

## Components of IJ

- Harm:
  - Serious Injury/Harm
  - Impairment
  - Death

Psychological harm may be as serious as physical harm.

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The first component of IJ is Harm, which does not include minor injuries such as superficial scratches. IJ criteria only includes serious harm, impairment or death. Please be aware serious harm and impairment includes psychological harm.

## Components of IJ

- **Harm: Actual or Potential**

Harm does NOT have to occur before considering Immediate Jeopardy. Both potential and actual harm must be considered. The high potential or significant risk for serious harm, serious injury, impairment, or death to occur in the very near future also constitutes Immediate Jeopardy.

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Harm criteria also includes both actual and potential harm. Additionally IJ may involve only ONE INDIVIDUAL being at risk. Identification of Immediate Jeopardy for one individual will prevent risk to other individuals in similar situations.

## Components of IJ

- Immediacy

Is the harm, or potential harm, likely to occur in the very near future if immediate action is not taken?

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The serious harm, injury, impairment or death may have occurred in the past, may be occurring at present, or may be likely to occur in the very near future as a result of the jeopardy situation. Immediacy is determined when the harm or potential harm is likely to occur if immediate action is not taken.

## Components of IJ

- **Culpability**

- Did the facility know about the situation? If so when did the facility first become aware?
- Should the facility have known about the situation?
- Did the facility thoroughly investigate the circumstances?
- Did the facility have an opportunity to implement corrective or preventive measures?
- Has the facility re-evaluated the measures to ensure the situation was corrected?

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Culpability is established when the facility either created a situation or allowed a situation to continue which resulted in actual or a potential for serious harm, injury, impairment or death to individuals.

**Note:** The survey team must consider the facility's response to any harm or potential harm that meets the definition of IJ. The stated lack of knowledge by the facility about a particular situation does not excuse the facility from knowing and preventing IJ. The team uses knowledge and experience to determine if the circumstances could have been predicted. The IJ investigation proceeds until the team has gathered enough information to evaluate any prior indications or warnings regarding the jeopardy situation and the facility's response. The crisis situations in which a facility did not have any prior indications or warnings, and could not have predicted a potential serious harm, are very rare.

## Investigating IJ

- Information Gathering
  - Observation
  - Interview
  - Record Review

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Upon recognizing a situation that may constitute IJ, surveyors notify the team leader. The team leader will then coordinate the investigative efforts into the situation. The investigation process proceeds until it confirms or rules out the IJ. The investigation is conducted in an impartial, objective manner to obtain accurate data sufficient to support a reasonable conclusion. Information is gathered through observations, interviews and record reviews.

## Investigating IJ

- WHO
- WHAT
- WHEN
- WHERE
- WHY

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Information garnered through observations, interviews and record reviews address the who, what, when, where and why, of the situation.

## Investigating IJ

### WHO:

- Who was involved in the IJ situation: staff, individuals receiving care and services, and others?
- Who is at risk? Does the individual(s) at risk have special needs? Has this happened to other individuals? If yes, how many?
- Are there others to whom this is likely to occur? If so, how many and who?
- Which facility staff knew or should have known about the situation?

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## Investigating IJ

### WHAT:

- What harm has occurred, is occurring, or most likely will occur? How serious is the potential/actual harm? How did the situation occur?
- What was the sequence of events?
- What attempts did the facility make to assess, plan, correct, and re-evaluate regarding the potential/actual harm?
- What did the facility do to prevent any further occurrences of the same nature?

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## Investigating IJ

### WHEN:

- When did the situation first occur? How long has the situation existed? Has a similar occurrence happened before?
- When did the facility investigate the event? Was the investigation thorough? Are the conclusions to the investigation reasonable?
- When did the facility have an opportunity to correct the situation? Did the facility implement corrective measures to prevent any further similar situations? Did the facility follow up and evaluate the effectiveness of their measures?

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## Investigating IJ

### WHERE:

- Where did the potential/actual harm occur? Is this an isolated incident or an entity wide problem?

### WHY:

- Why did the potential/actual harm occur? Was the Immediate Jeopardy preventable? Is there a system in place to prevent further occurrences? Is this a repeat deficient practice? Is there a pattern of similar deficient practices?

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## Decision Making

- Survey Team Discussion
  - Information Sharing
  - Does the situation meet criteria for harm, immediacy and culpability?

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Once the survey team has gathered and validated sufficient information to address the three components of IJ, the decision process begins.

Surveyors meet as a team, share and discuss the information they have gathered regarding the IJ. Following Appendix Q, the survey team will complete the following:

- Identify the three components of Immediate Jeopardy.
- Decide if enough information has been garnered to make a decision. If not, the investigation continues.
- Identify any inconsistencies or contradictions between interviews, observations and record reviews;
- Clarify any inconsistencies or contradictions.

## What happens when an IJ is identified?

- Notifications
  - State Agency
  - Other Agencies
  - Facility Administrator

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If the team reaches a consensus concerning the presence of IJ, then the team determines which Federal regulation(s) apply to the deficient practice(s). IJ will always result in Condition level non-compliance. The team leader then contacts the State Agency (SA) per the protocol established by the SA and determines if any other agencies need to be notified, e.g., Law Enforcement Agency, Adult or Child Protection, etc. The SA then notifies the CMS Regional Office (RO) of the IJ per the protocol established between the SA and the RO.

**NOTE:** Any criminal act is reported to the local law enforcement agency. The facility will be encouraged to make the report, if needed. Surveyors will only assume this responsibility if the facility refuses.

Once the team has consulted with the SA, the team notifies the facility's administration of the IJ. A verbal notice is given with the specific details, including the individuals at risk, before the survey team leaves the premises of the facility. The facility should begin immediate removal of the risk to individuals, and immediately implement corrective measures to prevent repeat Jeopardy situations.

## What happens when an IJ is identified?

- Immediate Correction
- 2567 Documentation
  - IJ citation(s)
  - Immediate Plan of Correction
  - Date the IJ was abated

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Once notified of the IJ, the facility has the opportunity to make corrections. If the facility is able to resolve the problem immediately, then the IJ can be removed before the survey team leaves. For this to occur, the facility develops an immediate plan of correction and submits it to the survey team. If the plan is acceptable, the facility proceeds to implement the plan. Surveyors then conduct observations, interviews, and record reviews to confirm the implementation of the facility's corrective actions has removed the serious and immediate jeopardy. The IJ is then abated. Note: IJ can only be abated by onsite confirmation of implementation of the facility's corrective actions.

The IJ citation and the evidence of the facility's actions, including dates indicating when the facility has removed the Immediate Jeopardy and corrected the deficient practice are included on the 2567 report. The 2567 is sent to the facility within 10 working days of the end of the survey. Follow up surveys are conducted for the Condition Level non-compliance, following 90 day termination action procedures.

## What happens when an IJ is identified?

- IJ not immediately corrected
- 2567 Documentation
  - IJ citation(s)
- 23 day (maximum time) termination actions initiated

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If the facility is unable or unwilling to remove the IJ before the end of the survey, surveyors inform the Administrator that the RO will be notified of the Immediate Jeopardy and termination procedures will be initiated. In accordance with Chapter 3 of the State Operations manual, section 3010B, termination procedures will be completed within a maximum of 23 days if the facility can not or will not remove the IJ.

The 2567 describing the Immediate Jeopardy is sent to the facility within 2 working days of the end of the survey. The facility must submit an acceptable plan of correction. Again, only onsite confirmation of implementation of the facility's corrective action justifies a determination that the Immediate Jeopardy has been removed. Therefore, surveyors must conduct a follow up survey to ensure the IJ is abated by the 23 day or the entity's provider agreement is terminated. Again, the 23 day period is the maximum time allowed. The RO may require shorter timeframes based on the situation.

## Prevention

- Ensure staff are familiar with Federal Regulations and Appendix Q.
- Develop & implement systems to safeguard against IJ situations.
- Establish Quality Assessment/Performance Improvement systems to provide comprehensive monitoring.

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It is each facility's responsibility to ensure people are not placed in immediate jeopardy. Ongoing assessment of systems, coupled with staff training and monitoring, can be critical to ensuring the health and safety of each person and that regulatory requirements are met.

## References

<sup>1</sup> *Appendix Q - Guidelines for Determining Immediate Jeopardy - (Rev. 1, 05-21-04)*. Retrieved from [http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap\\_q\\_immedjeopardy.pdf](http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_q_immedjeopardy.pdf)

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***Please send your comments or questions to  
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