



Appendix Q: Guidelines for Determining Immediate Jeopardy

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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. Appendix Q can be accessed from the Bureau of Facility Standards web site at:

http://cms.gov/manuals/Downloads/som107ap_q_immedjeopardy.pdf



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 – Actual or Potential
 - Serious Injury
 - Serious Harm
 - Impairment
 - Death

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The first component of IJ is Harm. Surveyors determine if the situation meets the harm criteria, keeping the following conventions in mind:

- 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.

- Only ONE INDIVIDUAL needs to be at risk. Identification of Immediate Jeopardy for one individual will prevent risk to other individuals in similar situations.

- Serious harm can result from both abuse and neglect. Anytime a citation is being issued for abuse or neglect, IJ should be considered.

- Individuals must not be subjected to abuse by anyone including, but not limited to, entity staff, consultants or volunteers, family members or visitors.

- Psychological harm is as serious as physical harm.

- When a surveyor has established through investigation that a cognitively impaired individual harmed an individual receiving care and services from the entity due to the entity's failure to provide care and services to avoid physical harm, mental anguish, or mental illness, this should be considered neglect.



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. 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. Immediacy is determined when the harm or potential harm is likely to occur in the very near future if immediate action is not taken.



Components of IJ

- Culpability
 - Did the entity know?

 - Should the entity have known?

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Culpability is established when the entity either created a situation or allowed a situation to continue which resulted in serious harm or a potential for serious harm, injury, impairment or death to individuals. Surveyors gather information to determine culpability which may include asking the following questions:

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

Note: The survey team must consider the entity's response to any harm or potential harm that meets the definition of Immediate Jeopardy. The stated lack of knowledge by the entity about a particular situation does not excuse an entity from knowing and preventing IJ. The team should use knowledge and experience to determine if the circumstances could have been predicted. The IJ investigation should proceed until the team has gathered enough information to evaluate any prior indications or warnings regarding the jeopardy situation and the entity's response. The crisis

situations in which an entity 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 must proceed 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 such as:

- **WHO:** Who was involved in the IJ situation: staff, individuals receiving care and services, and others? 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 entity staff knew or should have known about the situation?

- **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 entity make to assess, plan, correct, and re-evaluate regarding the potential/actual harm? What did the entity do to prevent any further occurrences of the same nature?

- **WHEN:** When did the situation first occur? How long has the situation existed? Has a similar occurrence happened before? Has the entity had an opportunity to correct the situation? Did the entity thoroughly investigate the event? Did you agree with the facility's conclusion after their investigation? Did the entity implement corrective measures to prevent any further similar situations? Did they follow up and evaluate the effectiveness of their measures?

- **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? The team then needs to proceed to validate the gathered information with facility staff.

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



Decision Making

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

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Surveyors will 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 you have enough information to make a decision. If not, continue the investigation;
- Identify any inconsistencies or contradictions between interviews, observations and record reviews;
- Clarify any inconsistencies or contradictions;
- Determine the specific Federal regulation for the situation; and
- Consult with the State Agency (SA).



What happens when an IJ is identified?

- Notifications
 - State Agency
 - Other Agencies
 - Entity Administrator

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If the team reaches a consensus concerning the presence of IJ, then the team determines which Federal regulation(s) to document the deficient practice(s). IJ will always result in Condition level non-compliance. The team leader then contacts the State Agency per the protocol established by the SA. Decide if any other agencies need to be notified, e.g., Law Enforcement Agency, Nurses Aide Registration Board. 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 needs to be reported to the local law enforcement agency. The entity should be encouraged to make the report, if needed. The surveyor should only assume this responsibility if the entity refuses.

Once the team has consulted with the SA, the team should notify the entity's administration of the Immediate Jeopardy. A verbal notice should be given with the specific details, including the individuals at risk, before the survey team leaves the premises of the entity. The entity should begin immediate removal of the risk to individuals, and immediately implement corrective measures to prevent repeat Jeopardy situations. The team should encourage the entity to provide evidence of their implementation of corrective measures.



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 entity has the opportunity to make corrections. If the entity is able to resolve the problem immediately, then the IJ can be removed before the survey team leaves. For this to occur, the entity develops an immediate plan of correction and submits it to the survey team. If the plan is acceptable, the entity proceeds to implement the plan. Surveyors then conduct observations, interviews, and record reviews to confirm the implementation of the entity'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 entity's corrective actions.

The IJ citation and the evidence of the entity's actions, including dates that indicate that the facility has removed the Immediate Jeopardy and corrected the deficient practice are included on the 2567 report. The 2567 is sent to the entity 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 termination actions initiated

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If the facility is unable or unwilling to remove the Immediate Jeopardy before the end of the survey, inform the administration 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 23 days if the entity can not or will not remove the IJ.

The 2567 describing the Immediate Jeopardy is sent to the entity within 2 working days of the end of the survey. The entity must submit an acceptable plan of correction. Again, only onsite confirmation of implementation of the entity'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.



Prevention

- Ensure staff are familiar with Federal Regulations and Appendix Q
- Develop & implement systems to safeguard against IJ situations
- Monitor to ensure systems are adhered to

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It is each entity'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.



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- ***Please send your comments or questions to fsb@dhw.idaho.gov***

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Thank you for your time and participation. Please feel free to email any comments or questions you may have.