Federal government payments received under this provision if corrective action is not taken in accordance with the approved plan and timetable for corrective action.

(2) CMS or the State may terminate the SNF or NF agreement before the end of the correction period if the criteria in paragraph (a)(1) of this section are not met.

(b) Cessation of payments. If termination is not sought, either by itself or along with another remedy or remedies, or any of the criteria set forth in paragraph (a)(1) of this section are not met or agreed to by either the facility or the State, the facility or State will receive no Medicare or Federal Medicaid payments, as applicable, from the last day of the survey.

(c) Period of continued payments—

(1) Non-compliance. If the conditions in paragraph (a)(1) of this section are met, CMS may continue payments to a Medicare facility or the State for a Medicaid facility with noncompliance that does not constitute immediate jeopardy for up to 6 months from the last day of the survey.

(2) Facility closure. In the case of a facility closure, the Secretary may, as the Secretary determines appropriate, continue to make payments with respect to residents of a long-term care facility that has submitted a notification of closure during the period beginning on the date such notification is submitted to CMS and ending on the date on which the resident is successfully relocated.

(d) Failure to achieve substantial compliance. If the facility does not achieve substantial compliance by the end of the period specified in paragraph (c) of this section,

(1) CMS will—

(i) Terminate the provider agreement of the Medicare SNF in accordance with §488.456; or

(ii) Discontinue Federal funding to the SNF for Medicare; and

(iii) Discontinue FFP to the State for the Medicaid NF.

(2) The State may terminate the provider agreement for the NF.

§488.452 State and Federal disagreements involving findings not in agreement in non-State operated NFs and dually participating facilities when there is no immediate jeopardy.

The following rules apply when CMS and the State disagree over findings of noncompliance or application of remedies in a non-State operated NF or dually participating facility:

(a) Disagreement over whether facility has met requirements. (1) The State’s finding of noncompliance takes precedence when—

(i) CMS finds that a NF or a dually participating facility is in substantial compliance with the participation requirements; and

(ii) The State finds that a NF or a dually participating facility has not achieved substantial compliance.

(b) Disagreement over decision to terminate.

(1) CMS’s decision to terminate the participation of a facility takes precedence when—

(i) CMS finds that a NF or a dually participating facility has not achieved substantial compliance; and

(ii) The State finds that a NF or a dually participating facility is in substantial compliance with the participation requirements.

(2) The State’s decision to terminate a facility’s participation and the procedures for appealing such termination, as specified in §431.153(c) of this chapter, takes precedence when—
Centers for Medicare & Medicaid Services, HHS

§ 488.456

(a) Effect of termination. Termination of the provider agreement ends—

(1) Payment to the facility; and

(2) Any alternative remedy.

(b) Basis for termination. (1) CMS and the State may terminate a facility’s provider agreement if a facility—

(i) Is not in substantial compliance with the requirements of participation, regardless of whether or not immediate jeopardy is present; or

(ii) Fails to submit an acceptable plan of correction within the timeframe specified by CMS or the State.

§ 488.454 Duration of remedies.

(a) Except as specified in paragraphs (b) and (d) of this section, alternative remedies continue until—

(1) The facility has achieved substantial compliance, as determined by CMS or the State based upon a revisit or after an examination of credible written evidence that it can verify without an on-site visit; or

(2) CMS or the State terminates the provider agreement.

(b) In the cases of State monitoring and denial of payment imposed for repeated substandard quality of care, remedies continue until—

(1) CMS or the State determines that the facility has achieved substantial compliance and is capable of remaining in substantial compliance; or

(2) CMS or the State terminates the provider agreement.

(c) In the case of temporary management, the remedy continues until—

(1) CMS or the State determines that the facility has achieved substantial compliance and is capable of remaining in substantial compliance; or

(2) CMS or the State terminates the provider agreement; or

(3) The facility which has not achieved substantial compliance re-assumes management control. In this case, CMS or the State initiates termination of the provider agreement and may impose additional remedies.

(d) In the case of a civil money penalty imposed for an instance of non-compliance, the remedy is the specific amount of the civil money penalty imposed for the particular deficiency.

(e) If the facility can supply documentation acceptable to CMS or the State survey agency that it was in substantial compliance and was capable of remaining in substantial compliance, if necessary, on a date preceding that of the revisit, the remedies terminate on the date that CMS or the State can verify as the date that substantial compliance was achieved and the facility demonstrated that it could maintain substantial compliance, if necessary.

§ 488.454 Duration of remedies.

(a) Except as specified in paragraphs (b) and (d) of this section, alternative remedies continue until—

(1) The facility has achieved substantial compliance, as determined by CMS or the State based upon a revisit or after an examination of credible written evidence that it can verify without an on-site visit; or

(2) CMS or the State terminates the provider agreement.

(b) In the cases of State monitoring and denial of payment imposed for repeated substandard quality of care, remedies continue until—

(1) CMS or the State determines that the facility has achieved substantial compliance and is capable of remaining in substantial compliance; or

(2) CMS or the State terminates the provider agreement.

(c) In the case of temporary management, the remedy continues until—

(1) CMS or the State determines that the facility has achieved substantial compliance and is capable of remaining in substantial compliance; or

(2) CMS or the State terminates the provider agreement; or

(3) The facility which has not achieved substantial compliance re-assumes management control. In this case, CMS or the State initiates termination of the provider agreement and may impose additional remedies.

(d) In the case of a civil money penalty imposed for an instance of non-compliance, the remedy is the specific amount of the civil money penalty imposed for the particular deficiency.

(e) If the facility can supply documentation acceptable to CMS or the State survey agency that it was in substantial compliance and was capable of remaining in substantial compliance, if necessary, on a date preceding that of the revisit, the remedies terminate on the date that CMS or the State can verify as the date that substantial compliance was achieved and the facility demonstrated that it could maintain substantial compliance, if necessary.

59 FR 56243, Nov. 10, 1994; 60 FR 50119, Sept. 28, 1995, as amended at 64 FR 13361, Mar. 18, 1999