

§ 488.9

42 CFR Ch. IV (10–1–23 Edition)

the provider or supplier submits an application to another CMS-approved accreditation program within 60 calendar days from the date of the notice from the accrediting organization. The provider or supplier must also provide written notice to the SA that it has submitted an application for accreditation under another CMS-approved accreditation program within this same 60-calendar day timeframe. Failure to comply with the timeframe requirements specified in this section will place the provider or supplier under the SAs authority for continued participation in Medicare and on-going monitoring.

(h) *Onsite observations of accrediting organization operations.* As part of the application review process, the ongoing review process, or the continuing oversight of an accrediting organization's performance, CMS may conduct at any time an onsite inspection of the accrediting organization's operations and offices to verify the organization's representations and to assess the organization's compliance with its own policies and procedures. The onsite inspection may include, but is not limited to, the review of documents, auditing meetings concerning the accreditation process, observation of surveys, the evaluation of survey results or the accreditation decision-making process, and interviews with the organization's staff.

[80 FR 29837, May 22, 2015]

§ 488.9 Validation surveys.

(a) *Basis for survey.* CMS may require a survey of an accredited provider or supplier to validate the accrediting organization's CMS-approved accreditation process. These surveys are conducted on a representative sample basis, or in response to substantial allegations of non-compliance.

(1) For a representative sample, the survey may be comprehensive and address all Medicare conditions or requirements, or it may be focused on a specific condition(s) as determined by CMS.

(2) For a substantial allegation of noncompliance, the SA surveys for any condition(s) or requirement(s) that CMS determines is related to the allegations.

(b) *Selection for survey.* (1) A provider or supplier selected for a validation survey must cooperate with the SA that performs the validation survey.

(2) If a provider or supplier selected for a validation survey fails to cooperate with the SA, it will no longer be deemed to meet the Medicare conditions or requirements, but will be subject to a review by the SA in accordance with §488.10(a), and may be subject to termination of its provider agreement under §489.53 of this chapter.

(c) *Consequences of a finding of non-compliance.* (1) If a CMS validation survey results in a finding that the provider or supplier is out of compliance with one or more Medicare conditions or requirements, the provider or supplier will no longer be deemed to meet the Medicare conditions or requirements and will be subject to ongoing review by the SA in accordance with §488.10(a) until the provider or supplier demonstrates compliance.

(2) CMS may take actions for the deficiencies identified in the state validation survey in accordance with §488.24, or may first direct the SA to conduct another survey of the provider's or supplier's compliance with specified Medicare conditions or requirements before taking the enforcement actions provided for at §488.24.

(3) If CMS determines that a provider or supplier is not in compliance with applicable Medicare conditions or requirements, the provider or supplier may be subject to termination of the provider or supplier agreement under §489.53 of this chapter or of the supplier agreement in accordance with the applicable supplier conditions and any other applicable intermediate sanctions and remedies.

(d) *Re-instating deemed status.* An accredited provider or supplier will be deemed to meet the applicable Medicare conditions or requirements in accordance with this section if all of the following requirements are met:

(1) It withdraws any prior refusal to authorize its accrediting organization to release a copy of the provider's or supplier's current accreditation survey.

(2) It withdraws any prior refusal to allow a validation survey, if applicable.

Centers for Medicare & Medicaid Services, HHS

§ 488.14

(3) CMS finds that the provider or supplier meets all applicable Medicare CoP, CFC, conditions of certification, or requirements.

(e) *Impact of adverse actions.* The existence of any performance review, comparability review, deemed status review, probationary period, or any other action by CMS, does not affect or limit conducting any validation survey.

[80 FR 29839, May 22, 2015]

§ 488.10 State survey agency review: Statutory provisions.

(a) Section 1864(a) of the Act requires the Secretary to enter into an agreement with any State that is able and willing to do so, under which appropriate State or local survey agencies will determine whether:

(1) Providers or prospective providers meet the Medicare conditions of participation or requirements (for SNFs and NFs);

(2) Suppliers meet the conditions for coverage; and

(3) Rural health clinics meet the conditions of certification.

(b) Section 1865(a) of the Act provides that if an institution is accredited by a national accrediting organization recognized by the Secretary, it may be deemed to have met the applicable conditions or requirements.

(c) Section 1864(c) of the Act authorizes the Secretary to enter into agreements with state survey agencies for the purpose of conducting validation surveys in institutions accredited by an accreditation program recognized by the Secretary.

(d) Section 1865(c) provides that an accredited institution that is found after a validation survey to have significant deficiencies related to health and safety of patients will no longer meet the applicable conditions or requirements.

[53 FR 22859, June 17, 1988, as amended at 56 FR 48879, Sept. 26, 1991; 58 FR 61842, Nov. 23, 1993; 62 FR 46037, Aug. 29, 1997; 80 FR 29839, May 22, 2015]

§ 488.11 State survey agency functions.

State and local agencies that have agreements under section 1864(a) of the Act perform the following functions:

(a) Survey and make recommendations regarding the issues listed in § 488.10.

(b) Conduct validation surveys of deemed status providers and suppliers as provided in § 488.9.

(c) Perform other surveys and carry out other appropriate activities and certify their findings to CMS.

(d) Make recommendations regarding the effective dates of provider agreements and supplier approvals in accordance with § 489.13 of this chapter.

[62 FR 43936, Aug. 18, 1997, as amended at 80 FR 29839, May 22, 2015]

§ 488.12 Effect of survey agency certification.

Certifications by the State survey agency represent recommendations to CMS.

(a) On the basis of these recommendations, CMS will determine whether:

(1) A provider or supplier is eligible to participate in or be covered under the Medicare program; or

(2) A provider or supplier accredited under a CMS-approved accreditation program remains deemed to meet the Medicare conditions or requirements, or will be placed under the jurisdiction of the SA and subject to further enforcement actions in accordance with the provisions at § 488.9.

(b) Notice of CMS's determination will be sent to the provider or supplier.

[53 FR 22859, June 17, 1988, as amended at 80 FR 29839, May 22, 2015]

§ 488.13 Loss of accreditation.

If an accrediting organization notifies CMS that it is terminating a provider or supplier due to non-compliance with its CMS-approved accreditation requirements, the SA will conduct a full review in a timely manner.

[80 FR 29839, May 22, 2015]

§ 488.14 Effect of QIO review.

When a QIO is conducting review activities under section 1154 of the Act and part 466 of this chapter, its activities are in lieu of the utilization review and evaluation activities required of health care institutions under sections 1861(e)(6), and 1861(k) of the Act.

[59 FR 56237, Nov. 10, 1994]