



Jennifer Kent  
DIRECTOR

State of California—Health and Human Services Agency  
Department of Health Care Services



EDMUND G. BROWN JR.  
GOVERNOR

Ms. Henrietta Sam-Louie  
Associate Regional Administrator  
Division of Medicaid and Children's Health Operations  
Centers for Medicare and Medicaid Services  
San Francisco Regional Office  
90 Seventh Street, Suite 5-300 (5W)  
San Francisco, CA 94103-6706

Dear Ms. Sam-Louie:

The Department of Health Care Services (DHCS) is submitting State Plan Amendment (SPA) 16-003 for your review and approval. This SPA proposes to update Attachment 4.40-E to reflect current policies and procedures utilized for investigation of complaints and onsite monitoring. The DHCS contracts via an interagency agreement with the California Department of Public Health (CDPH) to perform these activities. CDPH has clarified in its policies and procedures specific exceptions to complaints that may not warrant an investigation. There is no fiscal impact associated with this amendment.

SPA 16-003 will be effective July 1, 2016.

If you have any questions about the enclosed SPA, please contact Cassie Dunham, Chief of Field Operations, Long Term Care with the California Department of Public Health, at (916) 324-1261.

ORIGINAL SIGNED

Chief Deputy Director  
Health Care Programs  
State Medicaid Director

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

7. FEDERAL BUDGET IMPACT

a. FFY \_\_\_\_\_ \$ \_\_\_\_\_

b. FFY \_\_\_\_\_ \$ \_\_\_\_\_

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

10. SUBJECT OF AMENDMENT

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL

16. RETURN TO

13. TYPED NAME

14. TITLE

15. DATE SUBMITTED

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED

18. DATE APPROVED

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME

22. TITLE

23. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: California

ELIGIBILITY CONDITIONS AND REQUIREMENTS

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Process for Investigation of Complaints and Monitoring

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The State has in effect the following process for investigating complaints of violations of requirements by nursing facilities and monitors onsite on a regular, as needed basis, a nursing facility's compliance with the requirements of subsection (b), (c) and (d) for the following reasons:

- i. the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;
- ii. the facility was previously found not to be in compliance with such requirements and has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or
- iii. the State has reason to question the compliance of the facility with such requirements.

The Licensing and Certification Program procedures for processing skilled nursing facility and nursing facility complaints are detailed in the program's Policy and Procedure Manual Section 100.2.01. Complaint investigations form the highest priority of the program's workload under its agreement with the Centers for Medicare and Medicaid Services. The procedures for complaint investigation assure facility compliance with federal requirements. The process for complaint investigation is as follows:

1. Complaint intake. District Office staff record all pertinent information regarding the complaint using the complaint/incident intake form (see illustration 4.1) or by entering directly into the Aspen Complaint Tracking System (ACTS). Requests for anonymity are honored). All complaints are entered into the program's ACTS system and assigned a control number.
2. Supervisor Review. Complaint intakes are assigned to supervisors for review and priority determination. Priority 1 complaints carry a threat of imminent danger of death or serious bodily harm (immediate jeopardy) for which investigations are initiated within 24 hours. Priority 2 complaints are less threatening (non-immediate jeopardy, high and medium) for which investigations are initiated within ten days. Priority 2 complaints that do not carry a threat of imminent danger or death or serious bodily harm (non-immediate jeopardy) and are investigated during the next scheduled activity in a facility.
3. Complainant contact. Investigation staff confers with complainants prior to an investigation to acquire as much information as possible to enable a thorough investigation. Complainants are also briefed as to their involvement and how they will be notified about investigative findings.

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TN No. 16-003

Supercedes

TN No. 94-005

Approval Date

Effective Date July 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: California

4. On-site investigation. All complaints are investigated at the facility by trained survey personnel, in accordance with Policy and Procedure 100.2.1 and Appendix A2. All complaint investigations are unannounced.
5. Exceptions to on-site investigation. The following may not warrant an investigation:
  - i. The complaint does not constitute a violation of the regulations or statutes enforced by the Licensing and Certification Program.
  - ii. The complaint is intended to willfully harass the facility or is filed without any reasonable basis.
  - iii. Licensing and Certification has completed a recent complaint investigation that was based on the same person(s), date, time, location, circumstance(s) and allegation(s), and one of the following has occurred:
    - a. Deficiency(ies) and/or a citation was written as a result of the investigation,
    - b. No deficiency(ies) were identified as a result of the investigation and no further investigation is necessary.
  - iv. The complaint was referred to another agency with authority and/or enforcement responsibility.

When the district office supervisor determines, based on the above exceptions, that the complaint does not warrant an investigation, the district manager/administrator will have final approval.

6. Collection of evidence and documentation. During an on-site investigation, the surveyor conducts interviews, reviews facility records and records observations regarding substantiation of the complaint. Substantiated complaints and findings of deficiency(ies) are written on the Form 2567 (statement of deficiencies) and given to the facility. A revisit may be conducted at any time for any level of noncompliance. Evidence of correction may be accepted in lieu of a revisit, in accordance with the Centers for Medicare and Medicaid Services State Operations Manual, Chapter 7.
7. Public access to information. Facility files are public records which may be review at the district office during business hours. In addition, reports from the automated information management system on facility profile data are available to the public under the State's and federal government's access to information statutes and regulations.
8. The program has an established formal relationship with the State's Office of the Long Term Care Ombudsman. Under the agreement, the program provides an updated copy of the facility database so that the office may disseminate facility specific information to ombudsmen working out of the regional office network. District offices provide copies of the Form 2567 to the ombudsman following completion of surveys and the ombudsman is a recipient of any adverse action notice.

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