

Immediate Jeopardy (IJ) Decision Algorithm

Definition of Immediate Jeopardy:

As defined in Appendix Q (See 42 CFR 489.3) Immediate Jeopardy is a *situation in which the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment or death...* When such a situation exists, *immediate* corrective action is needed.

Guiding Principles:

- Actual harm *does not have to occur* before considering Immediate Jeopardy.
- Immediate Jeopardy includes the *potential of physical or psychological harm*.
- Harm can result from either *abuse or neglect*.
- A potential Immediate Jeopardy situation is a *situation likely to occur in the near future*, if no action is taken.

HARM:

- Has actual harm occurred?
Does the actual harm meet the definition of Immediate Jeopardy: serious injury, harm, impairment or death? Describe.
- Is there likelihood of potential harm?
Does the potential harm meet the definition of Immediate Jeopardy: serious injury, harm, impairment or death? Describe.

1. Is there actual or potential serious injury, harm, impairment or death?

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| If the answer to question 1 is "yes," proceed to question 2. If "no," stop. |
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IMMEDIACY:

- Is the harm or potential harm likely to recur in the very near future to this individual or others, if immediate action is not taken? If yes, why?

2. Are one or more individuals at risk of immediate serious injury, harm, impairment or death?

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| If the answer to question 2 is "yes", proceed to question 3. If "no," stop. |
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CULPABILITY:

- Did the agency have knowledge of the situation?
 - If yes, when did they first become aware?
 - Did the agency:
 - Thoroughly investigate the circumstances?
 - Promptly implement corrective action?
 - Re-evaluate the corrective measures to ensure that the situation was corrected?
- If the agency did not know, should the agency have known about the situation?

3. Was the agency culpable in that they knew of the situation and did not ensure safeguards or should have known about the situation?

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| If the answer to question 3 is "yes," proceed. If "no," stop. |
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CONCLUSION:

If answers are "yes" for all three questions above pertaining to harm, immediacy and culpability, Immediate Jeopardy exists.

- Identify and cite the most appropriate regulation(s)/tag(s) to define the failed practice(s).
- Cite the most appropriate Condition-level regulation as an Immediate Jeopardy.

NEXT STEPS:

- **Notify Regional Office or State Medicaid Agency of State Agency decision.**
- **Verbally notify agency administrator and urge immediate action. Provide written notice within 2 working days.**
- **Has the Immediate Jeopardy been removed?**
 - Has the agency implemented corrective measures, including implementing systems changes as appropriate, so that patients are not at risk for serious injury, harm, impairment or death?
 - Has the agency corrected the deficient practice?
 - Is the agency currently substantially complying with the Conditions of Participation? If yes, cite Immediate Jeopardy at the Condition level; indicate Immediate Jeopardy has been removed.

OR

- **Has the Immediate Jeopardy been removed and deficient practice still remains?**
 - Cite the Immediate Jeopardy at the Condition level; indicate the IJ has been removed but deficient practice exists.
 - Cite the remaining deficiencies at the most appropriate standard level.
- **Refer to Appendix Q for additional guidance, including process and timelines.**