

MEMORANDUM

Texas Department of Aging and Disability Services

TO: Regulatory Services Division
Regional Directors and State Office Managers

FROM: Linda Lothringer, Unit Manager
Policy, Rules and Curriculum Development Unit
State Office MC E-370

SUBJECT: Regional Survey and Certification (RS&C) Letter No. 09-01

DATE: March 13, 2009

The referenced Centers for Medicare and Medicaid Services (CMS), Regional Survey and Certification (RS&C) Letter was issued on March 10, 2009. This letter, which was distributed by e-mail on March 12th, is being provided to you for information and action purposes and should be shared with all professional staff.

- RS&C Letter No. 09-01 – SNF/NF and NF Financial Information for Civil Money Penalties

If you have any questions, please contact a nursing facility program specialist in the Policy, Rules and Curriculum Development unit at (512) 438-3161.

Attachment



Division of Survey and Certification, Region VI

March 10, 2009

REGIONAL SURVEY AND CERTIFICATION LETTER NO. 09-01

To: All State Survey Agencies (Action/Information)
All Title XIX Single State Agencies (Action/Information)

Subject: SNF/NF and NF Financial Information for Civil Money Penalties

42 CFR §488.438(f) and Section 7516B of the State Operations Manual (SOM) require the Centers for Medicare & Medicaid Services (CMS) and the State Survey Agency (SA) to consider a facility's financial condition when determining the amount of a civil money penalty to impose. When we implemented the enforcement regulations in 1995, the Dallas Regional Office (RO) established the "average of 3 month's Medicaid reimbursement" as our indicator of a SNF/NF's or NF's financial condition. The SA must provide this information when a civil money penalty (CMP) is recommended for imposition by CMS.

This letter revises the CMP financial worksheet that CMS developed for the SA to utilize (see attachment 1) and provides instructions to the SA on how to attach the financial worksheet to an enforcement case. In order for CMS to meet regulatory obligations, the SA will enter the completed financial worksheet in the attachment section of Aspen Enforcement Manager (AEM) (see attachment 2).

When a CMP is recommended, the SA will enter the financial worksheet completed in AEM no later than seven days after the enforcement action is forwarded to the RO. In cases where the SA does not recommend a CMP and one is imposed by CMS, the RO will notify the SA (through AEM) to attach the worksheet in AEM. Please note this procedure will also be followed for cases where the financial worksheet has not been attached in the system within seven days. The SA notification will be found under the enforcement tab under the action items (see Figure 1). The notification will be titled "Attach Financial Worksheet".

We appreciate your efforts and assistance in implementing the financial information instructions. The effective date of this RS&C letter is March 31, 2009. This ensures that the RO will have all the factors required to impose a civil money penalty and be in compliance with the regulation. If you have any questions or should you need more information regarding these instructions please contact Vilma Acosta at (214) 767-4460.

Sincerely,

David R. Wright
Associate Regional Administrator
Division of Survey and Certification

Attachments

Attachment 1:

FACILITY FINANCIAL CONDITION WORKSHEET

CMS must use an indicator of financial condition in order to impose a Civil Money Penalty - 42 CFR §488.438(f)

Date of Calculation: _____

Facility Name: _____

CCN#/ENF#: _____/_____

Owner of the provider agreement: (please provide)

Add the last three (3) full months of Medicaid reimbursement and divide by 3:

Three month average Medicaid Reimbursement: _____

Optional: any other pertinent financial information:

If you have questions, please contact (staff- phone number)

Thank you.

Notification to the SA to attach Financial Worksheet in AEM.

Figure 1 – AEM Explorer view

ASPEN Regional Office Current Selection:

File View Reports Tracking System Help

LA Louisiana Config Survey Facility Recycle E-Mail Print Export Import WWW Index Help ARO AST ARO Selection:

Find

- ASPEN Desktop (Enforcement View)
 - My Cases (ACOSTA, VILMA)
 - Special Cases
 - My Action Items (Acosta, Vilma)
 - 0-9
 - A
 - B
 - C
 - D
 - E
 - F
 - G-H
 - I-K
 - L
 - M
 - N
 - O
 - P-Q
 - R
 - S
 - T
 - U-V
 - W-Z
 - Case Workers

Aspen Regional Office

Click for...

[ASPEN Web Support](#)
[Casper Website](#)

Version 9.2

CMS
LAW ENFORCEMENT & PROSECUTION SERVICES

QTSO Help Desk 1-888-477-7876

Done

Message Text	Date	Responsible P...	St.
ATTACH FINANCIAL WORKSHEET TO ENF CASE FOR: TIMBERLAKE HEALT...	02/17/2009-Due	ACOSTA, VIL...	LA
REVIEW SURVEY TO ENF CASE FOR: GIDDINGS HEALTHCARE CENTER (TX...	02/16/2009-Due	ACOSTA, VIL...	TX
CASE SENT TO RO TO ENF CASE FOR: PARK PLAZA (TXM2M2)	02/16/2009-Due	ACOSTA, VIL...	TX
CASE SENT TO RO TO ENF CASE FOR: TIMBERLAKE HEALTH CARE (LAIKDR)	02/16/2009-Due	ACOSTA, VIL...	LA
REVIEW SURVEY TO ENF CASE FOR: NURSECARE NURSING & REHABILITA...	02/13/2009-Due	ACOSTA, VIL...	LA
IJ SITUATION ADDED TO ENF CASE FOR: GIDDINGS HEALTHCARE CENTER...	02/13/2009-Due	ACOSTA, VIL...	TX
NEW SURVEY ADDED TO ENF CASE FOR: MAISON DE LAFAYETTE (LABZJA)	02/12/2009-Due	ACOSTA, VIL...	LA
REVIEW SURVEY TO ENF CASE FOR: CRESCENT CITY HEALTH CARE CENT...	02/12/2009-Due	ACOSTA, VIL...	LA
NEW SURVEY ADDED TO ENF CASE FOR: CARROLL NURSING HOME (LAKO...	02/11/2009-Due	ACOSTA, VIL...	LA
SUBSTANTIAL COMPLIANCE ACHIEVED TO ENF CASE FOR: SPRING OAKS N...	02/10/2009-Due	ACOSTA, VIL...	TX
NEW SURVEY ADDED TO ENF CASE FOR: BRENHAM REST HOME (TX6BPL)	02/06/2009-Due	ACOSTA, VIL...	TX
NEW SURVEY ADDED TO ENF CASE FOR: RACELAND MANOR NURSING HO...	02/06/2009-Due	ACOSTA, VIL...	LA

Alpha Type Cert/Survey Enforcement Directory

Attachment 2:

Instructions on how to attach financial information to an AEM enforcement case:

After completing and saving the “Facility Financial Condition Worksheet” in your computer (or remote/removable disk) please note the instructions below to attach this file into the system.

1. Please click on the attachments section on the bottom of the screen to attach the facility financial condition worksheet (Figure 2).

Figure 2.

Latest Alleged Compliance: Day 23 No IJ 3 Calendar Months 08/20/2008 6 Calendar Months 11/20/2008 Facility Data

Case Basics | Surveys & IDR | Remedies | CMP | NATCEP | Notices | Hearing/Appeal | Upload

Summary

Case Status: Federal Status: Open-Active Closed: // State Status: //

Beginning Case Type: Federal Type: No Opportunity to Correct State Licensure: // Double G: //

Key Dates: Correction Due Date for Opportunity to Correct: // Substantial Compliance: 08/04/2008 Cycle Start to Compliance: 76 Initial Transfer to RO: 07/23/2008

Federal Program Participation Status: ACTIVE Status Date: //

Public Notices: Request for Termination Notice 1: // Date Notice 1 Appeared: // Request for Termination Notice 2: // Date Notice 2 Appeared: //

Case Workers

Worker Name	Phone #	Date Began	Current Prima
ACOSTA, VILMA	(214)767-446	07/24/2008	<input checked="" type="checkbox"/>
DELL, CAROLYN D.		07/23/2008	<input checked="" type="checkbox"/>

Federal State: [Legend] + Add - Remove

Activities

Sent	Due	Completed	Type	Responsible Party
08/06/2008			15-None	ACOSTA, VILMA
07/30/2008			R2-RO LETTER IN AEM	DELL, CAROLYN D.
08/27/2008			18-Review Survey	ACOSTA, VILMA
08/27/2008			18-Review Survey	DELL, CAROLYN D.
08/27/2008			18-Review Survey	ACOSTA, VILMA

+ Add Modify - Remove

State Case Notes

7/23/08 - notified CMS of IJ SQC, IJ removed before exit. In error, failed to timely notify CMS.
8/6/08 - notified CMS of new activity and remains ooc on 1st fu..

Print.. Letter/History Notes Attachments Complt Inv Save & Exit Cancel Help

2. A new window will open (Attachment Documents for case...). In the description column, please type "Financial Worksheet." (Figure 3)

Figure 3

Case TXE9G3 for RETIREMENT AND NURSING CENTER AUSTIN (455862) - Cycle Start: 10/31/2008 - Status: Open Active

Latest Alleged Compliance: 12/15/2008 Day 23 No IJ 3 Calendar Months 01/31/2009 6 Calendar Months 05/01/2009 Facility Data

Case Basics | Surveys & IDR | Remedies | CMP | NATCEP | Notices | Hearing/Appeal | Upload

Summary

Case Status: Federal Status: Open-Active Closed: // State Status: //

Beginning Case Type: Federal Type: No Opportunity to Correct Key Dates: Correction Due Date for Opportunity to Correct: // Substantial Compliance: 12/15/2008 hx Override

Attachment Documents for Case TXE9G3

Case ID	Description	File Name	Document
1	Financial Worksheet		Attach/View

Delete Close Help

Sent	Due	Completed	Type	Responsible Party
11/21/2008			18-Review Survey	HINDS, JOY
01/29/2009			22-New Survey Added	ACOSTA, VILMA
01/29/2009			22-New Survey Added	ACOSTA, VILMA
01/29/2009			22-New Survey Added	BOUWENS, LINDA
11/26/2008		12/02/2008	R1-RO LETTER IN AEM	CASTILLO, JANIE

+ Add Modify - Remove

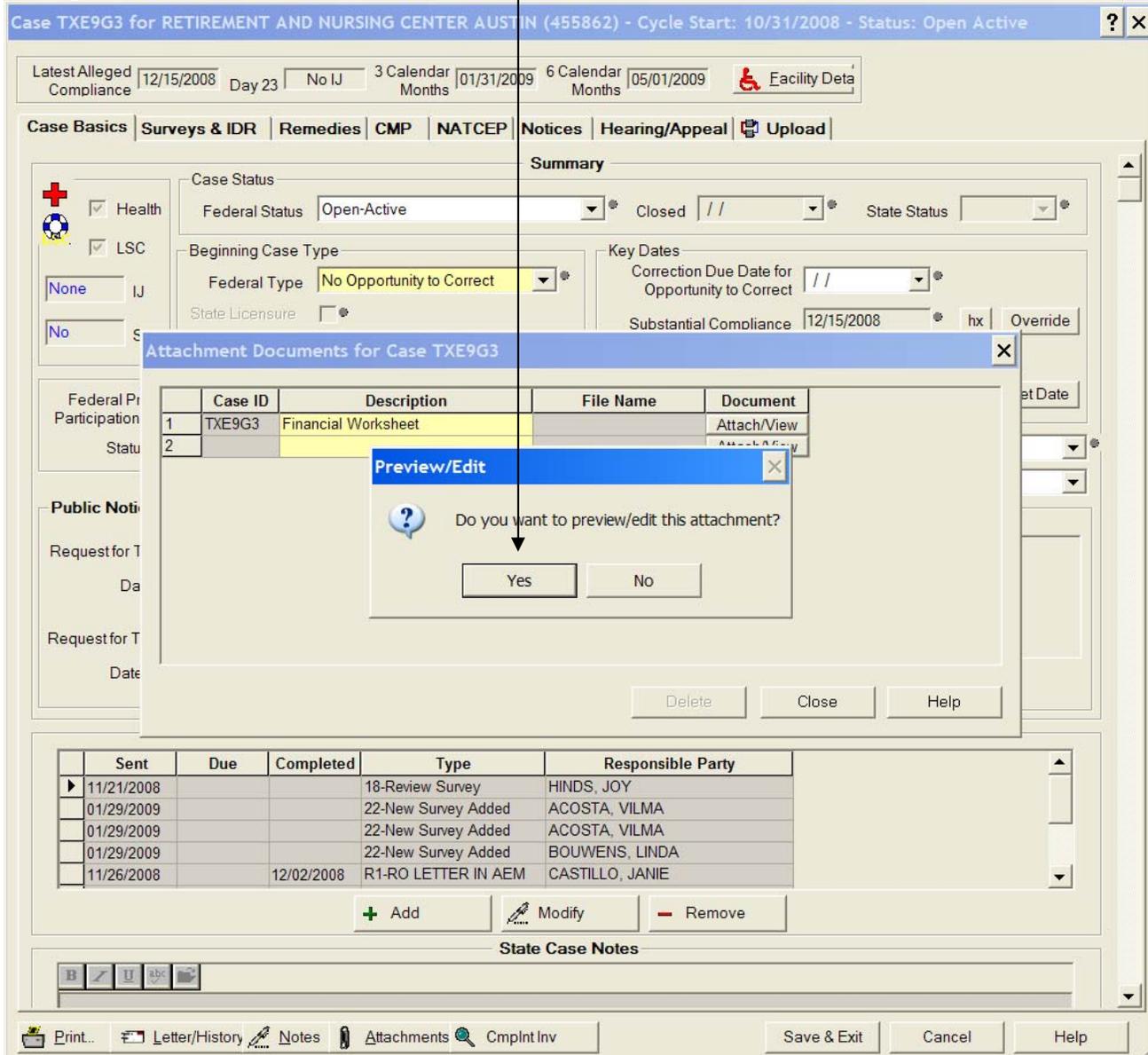
State Case Notes

Print.. Letter/History Notes Attachments Cmplt Inv Save & Exit Cancel Help

3. Click on the Attach/View column and locate the financial worksheet from where you saved it.

- After you have selected the financial worksheet and clicked on open, a new window will open to preview or edit the attachment (Figure 4).

Figure 4



- After the financial worksheet has been added to the case you can close the window.