

Hospice Survey Plan of Correction - Compliance Guide for Hospice Providers

Why are Plans of Correction more important to hospices than ever before?

Hospice surveys are required at least once every 36 months by a survey agency or approved accrediting organization.

The surveyor will complete 3-5 home visits with hospice staff based on the hospice's total number of unduplicated admissions during a recent 12-month period. The surveyor identifies and selects patients who will receive hospice services during the remaining days of the survey. Additional home visits may be made as needed to determine the scope of any concerns initially identified by home visits or record reviews.

The on-site survey is often a stressful experience. However, the hard work of a hospice is just beginning, as the hospice will have just ten calendar days upon receiving the written Statement of Deficiencies – Form CMS-2567 (SOD) to complete and submit a Plan of Correction (POC) that effectively addresses the alleged deficiencies.

Submitting a POC that will be acceptable to surveyors is critical to the hospice avoiding the significant consequences - including imposition of enforcement remedies (effective October 1, 2022) or termination of the hospice's provider agreement under Medicare - that could result from a rejected POC. This tip sheet is designed to furnish some relief to hospices in this stressful time by providing key tips for hospices regarding drafting and implementing a POC. This compliance guide describes the core requirements of a POC, and then identifies common POC pitfalls and solutions.

Note this resource is general in nature and focuses on the federal survey process administered by CMS. State survey agencies that are reviewing state licensure regulations and accreditation bodies may have additional requirements and expectations.

What are the core elements of a POC?

A POC must describe the corrective actions that the hospice will take to remedy an alleged deficiency and come into compliance with applicable regulations. A POC is typically required to be developed for all cited deficiencies, whether the deficiency is a standard or condition level deficiency. CMS guidance and Form CMS-2567 generally describe CMS's requirements concerning the content of a POC. In essence, a POC has three primary components, which require a hospice to:

- **Directly and specifically** describe the measures the hospice will put into place to take corrective action and ensure the alleged deficient practice does not recur.
- **Identify the monitoring procedures** the hospice will institute to ensure compliance is maintained into the future.
- **Identify proposed completion dates** and responsible parties for the corrective actions.

Each of these components is further explored below.

How does a POC directly and specifically address an alleged deficiency?

A POC should address the root cause of a deficiency and describe the corrective action that the hospice will take to address and correct it. The root cause could be multi-faceted, including lack of staff training, lack of adherence to the hospice's policies and procedures and/or failure to establish appropriate policies and procedures. The corrective action should be specific and tailored to address the root cause(s). For example:

- If the alleged deficiency resulted from an insufficient policy, then the corrective action should include a change in that policy and a description of the new policy.
- If the alleged deficiency related to staff failing to follow policy or a patient's plan of care, then the corrective action should address retraining staff.

In addition to identifying the corrective measures, the POC should address how each corrective measure will be implemented. In other words, it isn't enough to state that you reviewed, revised or created new policies, but the hospice needs to explain how it will make sure these measures are communicated and followed by staff. For example, once the policy is reviewed and revised, it will need to be distributed and then staff will need to be educated accordingly. Hospices should maintain written documentation of these implementation measures, so they can "prove" to surveyors, if needed, that the POC was followed.

What kinds of monitoring procedures should be included in a POC?

The kind of monitoring procedure that must be included in a POC is likely to vary depending on the nature of the citation. The goal of any monitoring procedure is to ensure ongoing compliance by demonstrating through testing and/or observation that the alleged deficiency has been resolved and will not recur.

The monitoring procedure may be as simple as observing a particular employee's performance at a certain task following retraining. A deficient practice that is severe and/or widespread may require a more complex monitoring procedure that includes multiple elements, such as:

- The methodology used to determine compliance (e.g., audit a sample of or x number of medical records)
- The frequency with which this methodology is implemented (e.g., once/week, once/month, etc.) and to whom the results of the monitoring procedure are provided
- Threshold for compliance (i.e. 90% or 100%).
- The action plan if further non-compliance is detected (e.g., increase frequency of record audits, conduct further education, etc.)

What completion date should the hospice include on the POC?

Consistent with applicable guidance, hospices are expected to identify an anticipated time of correction, or "completion date," for each identified deficiency. The completion date may trigger further contact from the surveyor - by phone, mail, or in person (a revisit survey) - to verify that the corrective action has been completed. While regulations set a general expectation that deficiencies will be corrected within sixty (60) days, CMS has concluded that certain deficiencies may require more or less time for corrective action.

If a deficiency relates directly to patient care and/or if the corrective action is simple, a surveyor is more likely to require an immediate or otherwise prompt completion date - a much shorter time frame than the sixty (60) days alluded to in the regulations. If a deficiency relates to administrative matters and/or if the corrective action is complex, a surveyor may allow for a more generous completion date.

In selecting a compliance date, hospices should be mindful of whether surveyors will need to complete an on-site revisit to verify compliance, as the compliance date will need to be far enough in advance to assure the surveyors can complete the revisit prior to the date on which significant consequences would be imposed (for example, the 90-day time frame in which condition level deficiencies must be corrected and verified by the surveyors to avoid additional enforcement remedies (after October 1, 2022) or termination of the hospice's provider agreement with Medicare).

Who should be identified as the person responsible for implementing a POC?

An often overlooked requirement, the POC must identify the person responsible for implementing each element of the POC. This can be a job title or a person. However, it should be the person who will actually personally oversee the implementation of that POC.

What if you disagree with the findings in the SOD, do you still need to submit a POC?

Although a hospice can use Form CMS-2567 to attempt to refute alleged deficiencies in lieu of submitting a POC that process is limited to providing indisputable documented evidence that refutes a factual finding of the surveyor. A POC is not the proper place to state a disagreement over the judgment of the surveyor regarding the level, extent, scope, or severity of a deficiency. With that said, the SOD is a public document and a hospice may wish to include a disclaimer similar to the following on its POC to make clear that you don't necessarily agree with the citations as written but are providing the POC because it is a requirement of both federal and state regulations. Note that state survey agencies have discretion on whether they will allow disclaimer language on the POC and therefore acceptance could vary state to state.

This plan of correction constitutes our written allegation of compliance for the deficiencies cited. However, submission of this plan of correction is not an admission that a deficiency exists or that one was correctly cited. This plan of correction is submitted to comply with state and federal laws.

What are some common problems with POCs, and how can they be addressed?

POCs are rejected for a number of reasons. Following the above tips regarding root causes, specificity, and monitoring will help protect the POC from rejections. In addition, certain shortcomings in a POC appear to arise frequently, but can be avoided:

- **Completion dates are not identified.** Each identified deficiency should have a "completion date" for the corrective action and each completion date should be tailored to that deficiency. In other words, a POC can (and perhaps should) have different completion dates for different deficiencies. For example, a deficiency resulting from a poor policy may require only a few days to revise the policy, whereas a deficiency that requires multiple steps to correct may have staggered completion dates for each step. Including different completion dates tailored to the specific deficiency demonstrates that the hospice is appropriately prioritizing corrective actions.
- **Completion dates are not prompt enough.** Extended completion dates are among the easiest reasons for a surveyor to reject a POC. Do not default to whatever the perceived maximum time frame for completion can be. Also, do not delay in taking corrective action until after a POC is submitted or approved. Instead, implement corrective actions immediately after the survey, so that the POC can reflect those certain actions already are underway or completed.
- **Overpromising.** A hospice must be realistic in both the corrective measures identified and the compliance date alleged. Failing to do so may create bigger problems for the hospice, including a failed revisit. In short, you want to avoid overpromising on corrections and completion dates, which means eliminating items that are not essential to correcting the cited concerns and identifying a date for compliance that can be met. Even if items are not included in a POC, however, the hospice still may voluntarily undertake additional actions if it is in its interest to do so - the POC serves as a floor, not a ceiling, for the actions a hospice can take.
- **Insufficient monitoring.** The monitoring procedure is an area that often is overlooked or addressed too generally in a POC, which can result in rejection. For example, a monitoring procedure that only states that records will be audited on an ongoing basis to verify compliance will likely be rejected. The monitoring procedure must identify how outcomes will be measured so the effectiveness of the corrective action can be determined, it should identify who among the management team will be informed about the results of the monitoring procedure, and it should identify the actions that will take place in the event that further non-compliance is detected.

In addition to POC development, a hospice must ensure oversight of Plan of Correction to ensure it is implemented as noted. Suggestions include the following:

- Establish a POC implementation tracking process.
- Incorporate into hospice QAPI Program priorities, with scheduled review of the POC to address any areas not meeting deadlines or achieving improvement.
- Report to Governing Body regularly regarding progress.
- **Hold staff accountable for responsibilities related to POC implementation and overall compliance with the CoPs on an ongoing basis.**

References

- [State Operations Manual, Ch. 2, Section 2728 - Statement of Deficiencies and Plan of Correction, Form CMS-2567](#)
- [State Operations Manual, Ch. 2, Section 2728B - PoC](#)
- [State Operations Manual, Appx. M, Parts I.C. and III](#)
- [42 C.F.R. § 488.28\(d\)](#)
- [CY 2022 Home Health Final Rule – Hospice Survey Reform and Enforcement Remedies](#), November 9, 2021
- [NHPCO Regulatory Alert on CY 2022 Home Health Final Rule](#), November 8, 2021