

**Revisit User Fee Program for Medicare
Survey and Certification Activities
Questions and Answers**

OVERVIEW

Q1: Why is this revisit user fee program being implemented?

A1: The Medicare program Survey & Certification revisit user fees are structured to recover the costs associated with conducting follow-up visits for deficiencies cited during initial certification, recertification, and substantiated complaint surveys. The collections associated with the revisit user fee will offset the CMS Survey & Certification program management appropriation for these activities on a dollar-for-dollar basis.

Q2: What's the authority for the revisit user fee?

A2: The President's HHS budget for FY 2007 included \$35 million in new user fees to finance the costs associated with CMS' Medicare survey and certification program's activities. The Continuing Appropriations Resolution ("Continuing Resolution") budget bill passed by the Congress and signed by the President directed HHS to implement the fees for FY 2007, as follows:

The Secretary of Health and Human Services shall charge fees necessary to cover the costs incurred under 'Department of Health and Human Services, Centers for Medicare and Medicaid Services, Program Management' for conducting revisit surveys on health care facilities cited for deficiencies during initial certification, recertification, or substantiated complaints surveys. Notwithstanding section 3302 of title 31, United States Code, receipts from such fees shall be credited to such account as offsetting collections, to remain available until expended for conducting such surveys
(Pub. L. No. 110-5, H.J.Res.20, §20615(b)(2007)).

Q3: What is a revisit?

A3: Revisit surveys are performed when there are findings of serious deficiencies that were identified during certification, recertification, and substantial complaint surveys. The revisit survey is conducted to verify that the deficiencies previously cited have been corrected.

Q4: Which providers/suppliers may be assessed a revisit user fee?

A4: The revisit user fee would be charged to all Medicare providers and suppliers that are currently surveyed and have outstanding deficiencies that required a revisit. For FY 2007, those Medicare providers and suppliers that may be assessed a revisit user fee include skilled nursing facilities, dually-participating nursing facilities, hospitals (also critical access hospitals), home health agencies, hospices, ambulatory surgical centers,

rural health clinics, and end stage renal disease centers. The fees would not apply, at this time, to comprehensive outpatient rehabilitation facilities (CORFs), transplant centers or programs, providers of outpatient physical therapy or speech pathology services, religious non-medical health care institutions (RNHCIs), Federally qualified health centers (FQHCs), community mental health centers (CMHCs), portable x-ray centers, independent laboratories, physical therapists in independent practice, and chiropractors.

Q5: Would revisit user fees apply to providers that are Medicaid-only, such as nursing facilities?

A5: Medicaid-only nursing facilities will not be assessed revisit user fees. However, nursing facilities that are also Medicare-participating could be assessed revisit user fees.

Q6: How will the revisit user fees be implemented?

A6: The revisit user fees became effective on September 19, 2007 until the end of the 2007 fiscal year, which ends September 30, 2007. For initial implementation of revisit user fees, a flat rate fee schedule for the revisit user fees will be based on average cost per revisit survey per provider/supplier type, and the type of the revisit - onsite review or offsite review.

Q7: Will there be any changes to revisit user fees or adjustments based on regional differences?

A7: For future fiscal years, CMS may adjust revisit user fees to account for provider size, typically determined by capacity (such as the number of beds), the number of follow-up revisits resulting from uncorrected deficiencies, and/or the seriousness and number of deficiencies. CMS may also adjust the fees to account for any regional differences in cost. If Congressional authority for the revisit user fee is renewed or extended, and CMS changes the overall methodology for calculating and collecting these fees, CMS will implement these changes through notice and comment rulemaking in the **Federal Register**. If Congressional authority for the revisit is renewed or extended but CMS will not be implementing any methodological changes, CMS will publish proposed and final notices in the **Federal Register** to announce and solicit comments on planned updates, adjustments, or changes to the criteria used, if changes are to be made.

EFFECTIVE DATE

Q1: When will these fees be effective?

A1: The revisit user fees became effective the date of publication of the final rule on September 19, 2007 and will remain in effect through September 30, 2007. We noted through the publication of the final rule that if authority for the revisit user fee is continued, we will use the current fee schedule in this rule for the assessment of such fees until such time as a new fee schedule is proposed and published in final form. If Congressional authority for the revisit user fee is renewed or extended, and CMS changes the overall methodology for calculating and collecting these fees, CMS will implement these changes through notice and comment rulemaking in the **Federal Register**.

APPLICATION/SURVEY PROCESS

Q1: How are revisits determined?

A1: As part of normal survey and certification activity, the determinations to conduct revisits are at the discretion of the State. CMS provides guidance, consultation, and oversight of State survey agency duties performed on behalf of the Secretary of HHS.

Q2: Will the underlying structure of the survey process be usurped so that it becomes a revenue-generating activity, rather than focusing on patient care and safety?

A2: The primary purpose for implementing the revisit user fees is to ensure the continuance of CMS Survey and Certification quality assurance functions that will improve patient care and safety. In addition, we believe the imposition of revisit user fees will incentivize providers/suppliers toward a greater commitment to correcting any identified quality of care problems, indicated through the citations of deficiencies. Also, it will likely encourage a sustained commitment or management of systems that improve quality of care provided to patients/clientele/residents.

Q3: How will revisit user fees impact survey and certification revisits that also involve State licensure issues?

A3: User fees will apply based on deficiencies with Federal regulations cited during initial certification, recertification, and substantiated complaint surveys. The additional State licensure issues that are to be addressed during a revisit are separate activities not connected with the assessment of a revisit user fee and are based on issues that affect State health care quality standards.

Q4: Could revisit user fees be charged for State monitoring activities?

A4: State monitoring activities are not always revisits that the State survey agency (SA) performs on behalf of CMS. State survey agencies may also perform monitoring activities as part of their State licensure requirements, or the State may have additional authorities to oversee the provider/supplier that go further than the Federal conditions of participation, conditions for coverage, or Federal requirements. When the SA takes actions in those situations, their actions would not be consistent with how we define a revisit survey for purposes of imposing the Federal revisit user fee.

COLLECTION/MECHANICS

Q1: How will the revisit user fees be calculated?

A1: For initial implementation of revisit user fees, a flat rate fee schedule for the revisit user fees will be based on average cost per revisit survey per provider/supplier type, and the type of the revisit - onsite review or offsite review. For future fiscal years, CMS may adjust revisit user fees to account for provider size, typically determined by capacity (such as the number of beds), the number of follow-up revisits resulting from uncorrected

deficiencies, and/or the seriousness and number of deficiencies. CMS may also adjust the fees to account for any regional differences in cost. If Congressional authority for the revisit user fee is renewed or extended, and CMS changes the overall methodology for calculating and collecting these fees, CMS will implement these changes through notice and comment rulemaking in the **Federal Register**. If Congressional authority for the revisit is renewed or extended but CMS will not be implementing any methodological changes, CMS will publish proposed and final notices in the **Federal Register** to announce and solicit comments on planned updates, adjustments, or changes to the criteria used, if changes are to be made.

Q2: What will be the revisit user fees?

A2: Revisit user fees are varied based on provider or supplier type and whether or not it is an onsite versus offsite survey. The final fee schedule is as follows:

Final Fee Schedule for Revisits Surveys (Onsite and Offsite).

Facility	Fee assessed per offsite revisit survey	Fee assessed on-site survey
SNF & NF	\$168	\$2,000
Hospitals	\$168	\$2,000
HHA	\$168	\$1,000
Hospice	\$168	\$1,000
ASC	\$168	\$1,000
RHC	\$168	\$1,000
ESRD	\$168	\$1,000

Q3: How will the revisit user fees be collected?

A3: For FY 2007, CMS will utilize a bill pay system. Providers or suppliers who are assessed a fee will receive a notice in the mail which will include the amount of the assessed revisit fee and the revisit survey for which the fee is assessed. Included in the notice is the obligation that payment is expected to be remitted within 30 days of the

receipt of notice. Methods of payment may include credit card, electronic fund transfer, check, or money order. All necessary details will be included within the coupon notice, including to whom to direct questions, and payment remittance information. **Effective 12/17/08, providers may make credit card and electronic account transfer payments for Revisit User Fees online via PAY.GOV at the following link:**

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=14999018>.

Q4: If the revisit fees are offset against a provider's or supplier's payment, can a provider or supplier include the revisit user fee as an allowed expense on its cost report?

A4: No, a provider or a supplier may not include a revisit fee that has been assessed as an allowable item on its cost report.

Q5: Will there be a difference in the charge between revisits that involve only one person as opposed to a revisit involving several people?

A5: There will not be a distinction based on the number of persons affected. Although in some cases complaint surveys may involve one individual, surveys in normal practice will investigate based on how issues may affect all persons within a given facility.

ENFORCEMENT

Q1: What action will CMS take if a provider/supplier does not pay a revisit user fee when and if assessed?

A1: Once a provider/supplier has been assessed a revisit user fee, it must be paid within 30 calendar days of the date of the revisit user fee assessment notice. If the user fee is not paid within that time, CMS may revoke the provider or supplier's enrollment and billing privileges, and CMS may terminate the provider's agreement.

Q2: Will appeal rights be available for providers or suppliers that believe a revisit fee has been assessed in error?

A2: CMS will review revisit user fees if the provider or supplier believes an error of fact has been made in the application of the revisit user fee, such as clerical errors, billing for a fee already paid, or assessment of a fee when there was no revisit conducted. A request for reconsideration must be received by CMS within 14 calendar days from the date identified on the revisit user fee assessment notice.

PROVIDER/SUPPLIER SPECIFIC CONCERNS

NURSING HOMES:

Q1: How will this revisit user fee affect the ongoing efforts to enhance the quality of life for the patients and caregivers in nursing homes?

A1: Survey and certification is an essential quality of care function of the Medicare program. The revenue generated through implementation of the revisit user fees will provide the budgetary support to continue survey and certification activities that protect Medicare beneficiaries.

Q2: Does the imposition of the revisit user fee conflict with the Advancing Excellence in America's Nursing Homes collaborative?

A2: We do not believe the use of revisit user fees conflict with Advancing Excellence. CMS is committed to high quality nursing home care and would apply the user fees only to those health care providers that have failed to comply with federal quality of care requirements. These are the providers for which CMS has identified deficient practices that require a revisit to assure that corrections have been made.

- Q3: Will imposing a revisit user fee harm the quality of care provided to nursing home residents by diverting critical funds to administrative costs that otherwise could be used to improve care and services?
- A3: We do not believe that the revisit user fee will harm quality of care provided in nursing homes. Over time, we expect the user fee will be a valuable incentive to encourage many nursing homes commit to sustained compliance or adherence to the Medicare Conditions of Participation.
- Q4: How will CMS balance what the public may perceive as a financial incentive to increase the number of revisits by since it is the controlling agent?
- A4: CMS believes the providers and suppliers are the controlling agents in managing the quality of care of services provided in their healthcare facilities. In the case of nursing homes, their management significantly impacts the practices that are subject to Medicare participation requirements. Revisit user fees will not be imposed until a revisit occurs allowing the nursing home ample motivation to improve quality, or if quality problems do occur, to ensure that quality lapses are corrected more quickly than in the past. Both of these positive effects should result in fewer revisits over time.
- Q5: How do the revisit user fees compare with civil monetary penalties (CMPs)?
- A5: Revisit user fees are based on the cost that CMS incurs as a result of the time and effort for State surveyors to conduct follow-up as a result of deficiencies found. A CMP, on the other hand, is the penalty imposed as a result of the type of deficiency found. If a revisit is required, a user fee will be assessed; however, this does not necessarily mean that a CMP will be levied as well.
- Q6: How do the dollars associated with the revisit user fee compare with CMPs?
- A6: The FY 2007 Joint Resolution provides that CMS will have use of the revisit user fees to support its survey and certification program. On the other hand, any monies collected from CMPs are delegated straight to the U.S. Treasury, in the case of Medicare facilities, whereas for Medicaid facilities, the money is apportioned to the States for the protection of the health and property of the residents. This is particularly true in the event of a facility closure (temporary management, relocation of residents, etc).

END STAGE RENAL DISEASE FACILITIES

- Q1: Does this rule coincide with the publication of the final rule for ESRD conditions for coverage? If so, the assignment of a fee could be excessive during the “learning curve” of the new regulation.

A2: New rules or substantial revisions of new rules are typically promulgated with future effective dates. Considerable educational communications usually precede the effective date, during which providers or suppliers have an opportunity to become familiar with the rule and make necessary changes before the survey process holds them accountable. In addition, CMS policy calls for ESRD surveys to be conducted about once every three years, and budgetary limitations have caused the surveys to become even less frequent. We therefore identified in the final rule that there will be reasonable opportunities for ESRDs to adjust to the new rules before they are affected by surveys and the later revisits that might follow some surveys.