

## Insights

### The Joint Commission to Require Immediate Notification for Loss of Deemed Status

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The Joint Commission recently announced a new element of performance to Accreditation Participation Requirement APR.01.03.01 ("Element of Performance"). The Element of Performance requires immediate notification to The Joint Commission when the Centers for Medicare and Medicaid Services ("CMS") removes an entity's deemed status following a complaint survey or validation survey. The Element of Performance applies to hospitals, critical access hospitals, ambulatory care organizations, and home care organizations ("Entities") that use the deemed status option to satisfy Medicare certification requirements. The Element of Performance is effective July 1, 2018.

Federal law imposes numerous health and safety standards on health care entities for purposes of participating in the Medicare program ("Conditions of Participation"). Accreditation Organizations ("AO") like The Joint Commission allow such entities to demonstrate compliance with the Conditions of Participation by meeting the AO's accreditation standards. This is commonly referred to as "deemed status." A provider entity having "deemed status" is therefore subject to ongoing surveys and oversight by the AO rather than by the State Survey Agency. However, a State Survey Agency may conduct a validation survey of an Entity at CMS's request to determine compliance with the Conditions of Participation, whether by randomly selecting it for review or investigating a complaint.

The Element of Performance's notification requirement is triggered when a State Survey Agency surveys an Entity with deemed status and makes a finding of non-compliance with applicable standards. In such instance, CMS will take action to remove the Entity's deemed status and place the Entity under jurisdiction of the State Survey Agency for monitoring remediation efforts and place the Entity on track for termination from the Medicare program if compliance is not achieved. The Element of Performance requires an Entity to immediately notify The Joint Commission when it receives notice that its deemed status has been removed rather than relying on CMS or a State Survey Agency to communicate such findings to The Joint Commission.

Entities accredited by the Joint Commission should adjust their business processes accordingly to ensure appropriate notification to The Joint Commission as specified in the Element of Performance. Please contact Brandon W. Shirley at [bshirley@kdlegal.com](mailto:bshirley@kdlegal.com) or Robert A. Anderson at [randerson@kdlegal.com](mailto:randerson@kdlegal.com) if you have questions about your business processes or need assistance with matters related to a validation survey.