



Colorado Department
of Public Health
and Environment

Performance Incentive Eligibility

Guidance for Facilities

March 13, 2014

SUMMARY

State statute establishes a performance incentive system that encourages facilities to:

- be cooperative throughout the survey process, and
- have minimal or no deficient practice.

The performance incentive is a 10% reduction of the licensure renewal fee and applies only to the onsite relicensure survey process. This document provides guidance to facilities regarding the levels of cooperation and regulatory compliance required to be eligible for the performance incentive.

STATUTORY AUTHORITY

The statute – C.R.S. § 25-3-105(1)(a)(I)(C) – reads:

The department of public health and environment shall institute, by rule, a performance incentive system for licensed health facilities under which a licensed health facility would be eligible for a reduction in its license renewal fee if: the department's on-site relicensure inspection demonstrates that the health facility has no significant deficiencies that have negatively affected the life, safety, or health of its consumers; the licensed health facility has fully and timely cooperated with the department during the on-site inspection; the department has found no documented actual or potential harm to consumers; and, in the case where any significant deficiencies are found that do not negatively affect the life, safety, or health of consumers, the licensed health facility has submitted, and the department has accepted, a plan of correction and the health facility has corrected the deficient practice, as verified by the department, within the period required by the department.

GUIDANCE

Statutory Language. The statutory language establishes the following eligibility criteria for performance incentives:

- full and timely cooperation
- no significant deficiencies
- an acceptable plan of correction
- correction of deficient practice

Note that as used in this guidance, the term “consumers” means patients/residents.

1. **Full and Timely Cooperation.** “[F]ully and timely cooperated with the department during the onsite inspection” means that the facility is responsive to requests for information and does not create undue delays to the survey process. This involves providing:

- accurate and truthful information.
- prompt access to building(s), consumers, staff and records as follows:
 - *Licensed Premises* – immediate access to all areas of the building(s) during hours of operation as necessary to complete the survey. However, for agencies that serve consumers in their homes, access shall be granted to the agency office within one hour of request if there is no staff at the licensed location when the surveyor arrives during normal business hours (M-F 8am – 5pm).
 - *Initiating the survey process* – access to the administrator or other staff member authorized to act as the representative for the facility during the survey process (i.e., that can facilitate access to consumers and staff and records as well as respond to questions about facility operations) within 15 minutes of entering the building.
 - *Facility staff* – access to direct care staff shall be immediately following the request, unless such staff is providing care or services and thereafter as soon as practicable. Where care is delivered in a person’s home, contact information for all staff and all consumers shall be provided within 30 minutes of request.
 - *Interviews/Observations of Care*– ability to observe the provision of care shall be upon request. All consumers have the right to refuse to be observed and/or interviewed, and this right is to be invoked directly with the surveyor.
 - *Consumer Records:* Consumer records and administrative records, including but not limited to, census and demographic information, complaint and incident reports, policies and procedures, meeting minutes shall be provided within 30 minutes of request. (Records kept in the consumer’s home or individual consumer documents not included in a home care agency’s permanent record shall be made available to the Department within two hours of request if the last visit occurred 14 or more days prior to the request.) Access to closed or administrative records that are not stored onsite shall be within 4 hours of request.

The timeframe for access to staff, consumers or records may be extended at the Department’s discretion.

2. **No significant deficiencies.** “[S]ignificant deficiencies that may have negatively affected the life, safety or health of its consumers” and “documented actual and potential for harm” refers to deficient practice that has caused or is likely to cause serious injury, harm, impairment, or death. This includes physical and psychological harm. It could be a pattern or an isolated incident. Some examples of the types of harm or actual harm that would **disqualify** a facility are:

- **High Potential for Serious Harm:** a situation that if not immediately corrected is likely to cause serious injury, harm, impairment or death to a resident receiving care in the facility. For example:

- A consumer wearing oxygen is smoking on the back porch along with a staff member.
- Hospital care staff on a cardiac floor are not trained on what to do when a consumer needs emergency resuscitation.
- Actual harm: a negative outcome – an injury – has occurred. For example:
 - A mechanical soft food diet is ordered but regular food is provided by staff resulting in a choking episode with loss of consciousness.
 - The wrong dose of a blood thinner is administered by staff which resulted in uncontrolled bleeding from the eyes and nose.
 - Facility water temperature is set too high resulting in burns while bathing.
- Potential harm: no actual harm with the potential for more than minimal harm. These are issues that can affect the quality of life or health, such as delivery of care issues, consumer rights, protective oversight, staff training (if more than a lack of documentation) and staffing. For example:
 - failure to implement fall precautions for a consumer with a known risk for falls.
 - failure to ensure dishwasher temperatures were at the appropriate level which could lead to the potential of widespread food borne illness.
 - failure to follow physician orders/plan of care/service plan.

Examples of deficiencies that would ***not disqualify*** a facility are those with a low potential for harm such as:

- Policies and procedures were not reviewed and updated annually as required (as long as there is no associated potential for more than minimal harm).
- Environmental issues such as furniture in disrepair, chipped paint, cleanliness of wall or floors (as long as the deficient practice was not widespread, or did not present either an infection control or safety concern).
- Not following posting requirements, such as not posting Poison Control Center information by the nurses' station as required (as long as the information was otherwise easily accessible and is not associated with more than minimal harm).

3. ***Acceptable Plan of Correction.*** “[T]he department has accepted a plan of correction” means that the facility has submitted a plan that contains the required elements and the Department determines that if the plan were implemented, the deficient practice would be corrected. Additionally, the facility will still qualify for the performance incentive if it requests and is granted one extension.
4. ***Correction of Deficient Practice.*** “[T]he health facility has corrected the deficient practice, as verified by the department, within the period required by the department” means that the Department is satisfied that the facility has corrected the deficient practice within the specified timeframes.