

# Immediate Jeopardy

## Hospital VBP Program Quick Reference Guide

### Eligibility for Participation in the Hospital VBP Program and Immediate Jeopardy Origination

The Centers for Medicare & Medicaid Services (CMS) Hospital Value-Based Purchasing (VBP) Program applies to subsection (d) hospitals, but excludes hospitals from participating for a fiscal year in which the following conditions apply:

1. A hospital that is subject to the payment reduction under section 1886(b)(3)(B)(viii)(I) of the Social Security Act (the Hospital Inpatient Quality Reporting Program)
2. **A hospital for which, during the performance period for the fiscal year, the Secretary has cited deficiencies that pose immediate jeopardy to the health or safety of patients**
3. A hospital for which there are not a minimum number of measures that apply to the hospital for the performance period for the fiscal year involved, or for which there are not a minimum number of cases for the measures that apply to the hospital for the performance period

A hospital that meets the definition of “cited for deficiencies that pose immediate jeopardy” (during any of the finalized performance periods for any measure in a given program year) will be excluded from participating in that program year.

### Immediate Jeopardy Definition: Violation of a Condition of Participation (CoP)

CMS uses the Medicare State Survey and Certification process for citing deficiencies that pose immediate jeopardy to patients. Hospitals cited for deficiencies by this process during the performance period will be excluded from the Hospital VBP Program for the fiscal year. Hospitals excluded from the Hospital VBP Program would not incur the applicable withhold and would not be eligible to receive incentive payments for the fiscal year.

### Immediate Jeopardy Definition: Emergency Medical Treatment and Labor Act (EMTALA) Violations

The CMS Regional Office determines whether there was an EMTALA violation after reviewing the State Survey Agency’s report and an expert physician reviews the findings. Then it determines whether the violation constitutes an EMTALA-related immediate jeopardy citation.

### Volume of Citations Required for Exclusion

Beginning on October 1, 2016 (Fiscal Year 2017), hospitals will be excluded from the Hospital VBP Program for a particular program year if, during the performance period for that fiscal year, they were cited three times for deficiencies that pose immediate jeopardy to the health or safety of patients.

### Performance Periods for Purposes of Immediate Jeopardy (FY 2019- FY 2022)

Fiscal Year	Performance Period
FY 2019	07/01/2014 – 12/31/2017
FY 2020	07/01/2015 – 12/31/2018
FY 2021	04/01/2016- 12/31/2019
FY 2022	04/01/2017- 12/31/2020

### CoP vs. EMTALA Citation Dates

- **CoP:** The survey end date generated in the Automated Survey Processing Environment (ASPEN) is used as the date for assignment of the immediate jeopardy citation to a particular performance period.
- **EMTALA:** The date of CMS’ final issuance of Form CMS–2567 to the hospital is used as the date for assignment of the immediate jeopardy citation to a particular performance period.
- **CoP and EMTALA:** If a hospital survey resulted in a CoP citation and an EMTALA-related citation, the survey end date generated in ASPEN would be the default date for potential exclusion from the Hospital VBP Program.

For further assistance regarding the information contained in this document, please contact the Hospital Inpatient Value, Incentives, and Quality Reporting (VIQR) Outreach and Education Support Contractor (SC) through the Inpatient Questions and Answers tool at <https://cms-ip.custhelp.com>, or by calling, toll-free, (844) 472-4477 or (866) 800-8765 weekdays from 8 a.m. to 8 p.m. ET.