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## CMS Promises Future Guidance on Elder Justice Act Requirement for SNF Owners and Employees to Report Crimes

**04.04.2011**

[Kenneth L. Burgess](#)

In a March 11, 2011 letter, a key official from CMS has announced CMS's plans to issue future guidance on Section 1150B of Title VI, Subtitle H of the Elder Justice Act. That provision requires that certain employees and owners of SNFs that receive federal funding (including Medicare and Medicaid) report to the Secretary of the U.S. Department of Health and Human Services and to local law enforcement any "reasonable suspicion" of a crime occurring in the facility.

The law's breadth has left most long term care providers and government officials wondering how it can be implemented and precisely what is required. Many of the terms in the statute are undefined, but the penalty for failing to report reasonable suspicion of a crime occurring in a long term care facility includes enormous civil money fines that attach to the individual failing to report suspicion of a crime. A number of providers and provider organizations around the country have inquired of their State Survey Agency and various CMS Regional Offices about the law, whether implementation has been delayed, to what crimes the law will apply and to whom these "reasonable suspicions" should be reported.

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CMS has stopped short of saying that enforcement of the law has been delayed. However, in his March 11, 2011, letter, Thomas Hamilton, Director of CMS's Survey and Certification Group, stated that "at the present time we are formulating the necessary procedures and communications" to implement the law. He also stated that "we plan to issue guidance in the near future."

We are hoping that CMS will issue guidance that narrows the potentially enormous scope of this law and answers some of the lingering questions for which, frankly, there are currently no answers. We will continue to monitor developments regarding this part of the Elder Justice Act and report to Shorts readers as further guidance becomes available.



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