

### **Waiver Process**

Providers and suppliers that want to take advantage of one or more of the categorical waivers identified below must formally elect to use one or more of the waivers and **must document their election decision**. If a provider/supplier conforms to the requirements identified for each categorical waiver elected, it will not need to apply specifically to CMS for the waiver, nor will it need to wait until being cited for a deficiency in order to use this waiver. At the entrance conference for any survey assessing LSC compliance, a provider/supplier that has elected to use a categorical waiver must notify the survey team of this fact, and that it meets the applicable waiver provisions. It is not acceptable for a healthcare facility to first notify surveyors of waiver election after a LSC citation has been issued.

The survey team will review the provider's/supplier's documentation electing to use one or more of the categorical waivers and confirm it is meeting all applicable categorical waiver provisions. This will ensure an adequate level of protection is afforded. The waiver(s) elected by the provider/supplier must be described under Tag K000. Categorical waivers do not need to be cited as deficiencies nor do they require Regional Office approval. Therefore the applicable field on the Form CMS-2786 should be marked as "Facility Meets, Based Upon, 3. Waivers." If the survey team determines that the waiver provisions are not being met, the provider/supplier will be cited as a deficiency under §482.41(b)(2), §485.623(d)(3), §483.70(a)(2), §416.44(b)(2), or §418.110(d)(2), as appropriate.

### **Clarification of Process for LSC Waivers permitted under S&C-12-21**

CMS memorandum S&C-12-21-LSC, dated March 9, 2012, also provided for categorical waivers of several provisions of the 2000 LSC, but required each provider/supplier waiver to be evaluated separately before a survey was to be conducted, with final approval by the CMS Regional Office. Providers/suppliers seeking to take advantage of these categorical waivers may now use the categorical waiver process described above, so long as they are in compliance with all other requirements identified in S&C-12-21-LSC.