

March 26, 2020



Seema Verma  
Administrator  
U.S. Department of Health and Human Services  
Centers for Medicare and Medicaid Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Administrator Verma:

On behalf of our over 6,000 members and partners including nonprofit organizations representing the entire field of aging services, 38 state associations, hundreds of businesses, consumer groups, foundations, and research centers, LeadingAge asks that you consider additional actions to temporarily suspend certain requirements for health care providers, in this case focusing on skilled nursing facilities, to better respond to the novel coronavirus (COVID-19) outbreak.

The public health emergency declaration along with the President's national emergency declaration enabled your office to allow waivers consistent with section 1135 of the Social Security Act. We applaud the swift action that you have taken to date for skilled nursing facilities by waiving the 3-day prior hospitalization requirement at 1812(f) as well as providing relief on the timeframe requirements for Minimum Data Set (MDS) assessments and transmission at 483.20.

Additionally, provisions in many of the approved state 1135 waivers impact skilled nursing providers and we ask that you consider extending some of those policies into blanket waivers. These include allowing evacuating facilities to provide services in alternative settings, relaxing provider participation requirements to provisionally, temporarily, enroll providers, and relaxing Pre-Admission Screening and Annual Resident Review (PASRR) requirements. Related to PASRR, we ask that you also consider extending Medicaid recertification requirements at the state level across the board for all 50 states as well as allowing off-site reviews and telehealth modalities where available to lessen exposure and transmission risks.

However, much more flexibility is required to allow nursing homes to most effectively respond to this emergency and provide the best care possible to residents. We ask that you authorize the following blanket waivers that relate to skilled nursing facilities:

- **Suspending payroll-based journal (PBJ) submission** at 483.70(q). Staffing suffers as a result of COVID-19 as staff fall ill or miss work in order to care for ill family members. Additionally, with schools and adult day programs closing across the country, many staff are missing work as they struggle to find care for children and older adults who are not safe to remain home alone.

- **Relaxing comprehensive care plan requirements and timelines** at 483.21. The federal blanket waiver announced on March 13 waives requirements at 483.20 to provide relief to SNFs on the timeframe requirements for Minimum Data Set (MDS) assessments and transmission. Comprehensive care plans and quarterly reviews are based on these MDS assessments and should be waived accordingly.
- **Relaxing requirements for physician assessment every 30 days in the first 90 days and every 60 days thereafter** at 483.30. Allow for the use of telehealth for these visits to relieve physician burden and minimize risk of exposure and transmission of COVID-19 to residents. Waive penalties associated with noncompliance if telehealth is not available or physician visits are not completed timely.
- **Allowing off-site pharmacy reviews** at 483.45(c) to minimize the risk of virus exposure during this pandemic.
- **Relaxing requirements to allow all sites to function as training sites for certified nurse assistant's clinical hour requirements** at 483.152. Maintain the requirement for an identified registered nurse on site to take responsibility for the trainee as a way to assist with staff shortages during the pandemic. Remove the requirement that the instructor must have taken a course on adult learning or experience teaching.

These requests represent policies that are necessary at this moment. They can allow important care delivered in nursing homes to continue as uninterrupted as possible given the unique challenges brought on by COVID-19. As we learn more about the evolving pandemic and best ways to deliver care to patients, we anticipate the need for additional assistance from CMS and ask that the agency remain flexible as nursing homes continue to deliver care for residents during this national emergency.

Sincerely,

Katie Smith Sloan  
President & CEO, LeadingAge

cc: Jean Moody-Williams, Acting Director, Center for Clinical Standards and Quality, CMS  
Carol Blackford, Deputy Director, Center for Clinical Standards and Quality, CMS  
David Wright, Director, Quality and Safety Oversight Group, CMS  
Evan Schulman, Director, Division of Nursing Homes, CMS