

September 15, 2020

Programs of All-Inclusive Care for the Elderly (PACE) COVID-19 Frequently Asked Questions

This document provides frequently asked questions and answers and supplements the following

- The March 17, 2020, HPMS Memo titled “[Information for PACE Organizations Regarding Infection Control and Prevention of Coronavirus Disease 2019 \(COVID-19\).](#)”
- The April 9, 2020, HPMS Frequently Asked Questions document titled “[CMS Responses to Questions Asked During the March 24, 2020 Call with the PACE Community.](#)”

Waiver of PACE Regulatory Requirements

Question 1: During the COVID-19 pandemic, will CMS issue a waiver for some or all of the PACE regulatory requirements? If CMS is not going to issue a waiver, will there be any further guidance on the application of CMS’s enforcement discretion or how it will be used?

Answer: We do not believe that it would be appropriate to waive all PACE regulatory requirements at this time as PACE participants are some of our most vulnerable beneficiaries. In the “[Information for PACE Organizations Regarding Infection Control and Prevention of Coronavirus Disease 2019 \(COVID-19\)](#)” document and the “[CMS Responses to Questions Asked During the March 24, 2020 Call with the PACE Community](#)” document, we describe the areas in which CMS is exercising enforcement discretion for the PACE program during the COVID-19 public health emergency. Also, we remind PACE organizations (POs) that they may submit a request to CMS in accordance with 42 CFR § 460.26 to waive certain PACE regulatory requirements in response to their particular needs.

Personnel

Question 2: Is CMS willing to relax additional PACE personnel requirements during the COVID-19 pandemic? For example, will CMS waive or not enforce requirements for background checks, re-certifications of licensure, CPR re-certification, or verification of initial competencies during the pandemic?

Answer: Given the vulnerability of PACE participants, we do not believe that it would be appropriate to waive or not enforce any additional Federal requirements for PACE personnel. For example, POs must continue to ensure that they meet the requirements not to employ or contract with individuals who have been excluded from Medicare or Medicaid, have criminal convictions, or present the other issues identified in 42 CFR § 460.68(a). Also, to ensure that new staff can provide care in a safe and effective manner, we remind POs that they remain subject to the requirements governing the required personnel qualifications for staff with direct participant contact in accordance with § 460.64. For questions regarding state licensure and other state requirements, POs should refer to their state administering agency and licensing board.

PACE Quality Data Reporting

Question 3: Should POs report positive COVID-19 cases to CMS as part of the PACE Quality Data reporting requirements?

Answer: For positive COVID-19 cases, POs should follow the current guidance for reporting infectious disease outbreaks in HPMS as outlined in the [“PACE Quality Monitoring & Reporting Guidance, April 2018,”](#) and the HPMS PACE Quality Monitoring User Guide. Based on long-standing guidance, POs are required to report any infectious disease outbreak that meets the following criteria:

- Has resulted in death, or
- All incidents that are reportable to the respective state or county public health authority, have three or more cases and are linked to the same infectious agent within the same time frame.

POs must enter this information under the Infectious Disease Outbreak category in HPMS, and complete the required information, for example, number of participants affected, number hospitalized, and participants’ current status. Also, as stated in the [“CMS Responses to Questions Asked During the March 24, 2020 Call with the PACE Community,”](#) POs should report all positive or suspected COVID-19 cases immediately to their local health department.

Secondarily, we encourage POs to alert their CMS PACE account manager. Consistent with the [“PACE Quality Monitoring & Reporting Guidance, April 2018,”](#) some situations may require additional reporting to the Centers for Disease Control and Prevention (CDC).

Lastly, as noted in the HPMS memo “Extension of the Program of All-Inclusive Care for the Elderly Quality Data Reporting Submission Due Dates for Quarter 1 and Quarter 2 of Calendar Year 2020 – COVID-19,” April 21, 2020, CMS announced the extension of the quarter 1 submission due date from May 15th to July 15th, and the quarter 2 submission due date from August 15th to October 1st. POs that have not yet entered infectious disease outbreak data as part of the PACE Quality Data reporting for quarter 1 may do so by requesting an extension in HPMS.

Question 4: As part of the PACE Quality Data reporting requirements for an infectious disease outbreak, are POs required to conduct a root cause analysis (RCA) for each submission involving COVID-19?

Answer: POs should follow the current guidance for reporting infectious disease outbreaks as described in the [“PACE Quality Monitoring & Reporting Guidance, April 2018,”](#) and the HPMS PACE Quality Monitoring User Guide. All PACE Quality Data entries for infectious disease outbreaks in HPMS require the submission of an RCA. In addition, POs must report positive COVID-19 cases immediately to their local health department and are encouraged to alert their CMS PACE account manager.

Overnight Care in a PACE Center

Question 5: Can POs utilize their PACE centers to provide overnight care to PACE participants, including to persons whom the Interdisciplinary Team (IDT) has identified as needing nursing facility, skilled nursing facility (SNF) or acute care services?

Answer: The answer to this question will depend on what services the PO's IDT has identified as necessary for a participant, and which services are included in the participant's plan of care.

If the IDT determined that the participant needs services defined under the Medicare or Medicaid regulations, and those services are identified as necessary in the participant's plan of care, then the PO can provide those services directly only if it abides by the Medicare and/or Medicaid requirements applicable to those services, including any conditions for coverage, or provider/supplier qualification or enrollment requirements specific to the service. POs cannot operate as Medicare or Medicaid providers or suppliers, such as SNFs or acute care facilities, unless they meet all relevant Medicare or Medicaid requirements for the relevant provider or supplier type. However, in response to the COVID-19 pandemic, CMS is currently affording providers and suppliers various flexibilities by granting blanket waivers for certain regulatory requirements. For example, CMS will waive certain conditions of participation and certification requirements for opening a nursing facility if the state determines there is a need to quickly stand up a temporary COVID-19 isolation and treatment location. For more information, see [COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers](#).

Further, if the IDT determined, and the plan of care reflects, that the participant needs services that are not specifically defined under the Medicare or Medicaid regulations, then the PO may have greater flexibility to provide those services directly, depending upon state and local law. For example, the IDT may determine that SNF services are not necessary, but that overnight care at the center is necessary to improve and maintain a participant's overall health status in accordance with § 460.92(c). In this case, the PACE center might be able to provide that overnight care directly, assuming this is consistent with state and local licensing and other law, because the care is not identified by the IDT or in the plan of care as SNF care, or as any other type of care that is specifically defined in the Medicare or Medicaid regulations. POs proposing to provide any overnight care or services should consult with their state partners to determine what impact state and local laws will have on their ability to provide this kind of service.

Please note that, in accordance with 42 CFR §§ 460.180 and 460.182, POs are subject to significant limitations on their ability to receive payment in addition to the monthly PACE capitation payments for any services provided to PACE participants.