



Updated May 1, 2020

## Nursing Homes

CMS announced [additional blanket waivers](#) on April 30, 2020.

### **New 4/30** *Quality Assessment and Performance Improvement (QAPI)*

- CMS is modifying §483.75(b)–(d) and (e)(3) to the extent necessary to narrow the scope of the QAPI program to focus on adverse events and infection control. The waiver allows a skilled nursing facility to concentrate on these areas other than clinical care, quality of life and resident choice. Note that this waiver modifies only the scope of the QAPI program and all other elements (feedback, data systems and monitoring; systematic analysis and systemic action; performance improvement activities; and governance and leadership) must all be active and functioning, and providers must be prepared to demonstrate compliance with other requirements under this section.

### **New 4/30** *In-service Training*

- The requirement that skilled nursing facilities must assure that each certified nursing assistant receives 12 hours of in-service training annually at §483.95(g)(1) is waived through the end of the first full quarter after the declaration of the public health emergency concludes. Note that this does not waive requirements for all training for nurse aides and other staff. Providers must still maintain a training program for all new and existing hires that includes the required topics listed in §483.95.

### **New 4/30** *Information Sharing for Discharge Planning*

- The requirement at §483.21(c)(1)(viii) to provide detailed information regarding discharge planning, to patients and their caregivers, or the patient's representative in selecting a post-acute care provider by using and sharing data that includes, but is not limited to, other provider's quality measures and resource use measures is waived. All other discharge planning requirements are unchanged.
- Hospitals are also having the requirement at §484.58(a) waived so that they will not be sharing quality data and resource use information with patients, caregivers, and their representatives at discharge for post-acute care settings.

### **New 4/30** *Clinical Record Sharing*

- The deadline for completion of the requirement to provide a patient a copy of their medical record at no cost when requested within two business days is extended to ten business days.

### **New 4/30** *Inspection, Testing & Maintenance (ITM) under the Physical Environment Conditions of Participation*

- CMS is temporarily modifying the requirement at §483.90 to the extent necessary to permit nursing homes to adjust scheduled inspection, testing and maintenance frequencies and activities for facility and medical equipment.
- CMS is temporarily modifying §483.90(a)(1)(i) and (b) to the extent necessary to permit the nursing homes to adjust scheduled ITM frequencies and activities required by the Life Safety Code (LSC) and Health Care Facilities Code (HCFC). The following LSC and HCFC ITM are considered critical are **not** included in this waiver:
  - Sprinkler system monthly electric motor-driven and weekly diesel engine-driven fire pump testing.
  - Portable fire extinguisher monthly inspection.
  - Elevators with firefighters’ emergency operations monthly testing.
  - Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing.
  - Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency.
- CMS will permit a waiver of outside window and outside door requirements at §483.90(a)(7) to permit nursing homes to utilize facility and non-facility space that is not normally used for patient care to be utilized for temporary patient care or quarantine.

**New 4/30 Expanding Telehealth**

- CMS is waiving the requirements of section 1834(m)(4)(E) of the Social Security Act and 42 CFR § 410.78 (b)(2) which expands the types of health care professionals that can furnish telehealth services to include all those that are eligible to bill Medicare for their professional services. Specifically, this allows physical therapists, occupational therapists, speech language pathologists, and others, to receive payment for Medicare telehealth services.

| <a href="#"><u>What did LeadingAge ask for</u></a>          | <b>Did we get it</b> | <a href="#"><u>What is in the rule</u></a>  |
|---|----------------------|---|
| Suspending payroll-based journal (PBJ) submission           | Yes                  | <ul style="list-style-type: none"> <li>• Providing relief to long term care facilities on the requirements for submitting staffing data through the Payroll-Based Journal system</li> <li>• The submission is waived but we will still need to review the detail and ramifications of Nursing Home Compare</li> </ul> |
| Relaxing comprehensive care plan requirements and timelines | No                   | <ul style="list-style-type: none"> <li>• Care plans have not been waived.</li> </ul>  |

|  |                                |   |
|--|--------------------------------|---|
| <p>Relaxing requirements for physician assessment every 30 days in the first 90 days and every 60 days thereafter</p>                    | <p>Yes and No</p>              | <ul style="list-style-type: none"> <li>• Requirements for assessment every 30 days in the first 90, and every 60 days thereafter have not been waived, but who completes these assessments and how they are completed has been relaxed.</li> <li>• Waiving requirements for physicians and non-physician practitioners to perform in-person visits for nursing home residents and allow visits to be conducted, as appropriate, via telehealth options.</li> <li>• <i>04/09/2020</i>: Allowing for these visits to be delegated to NPs, PAs, or clinical nurse specialists in addition to previously-granted allowances for the use of telehealth.</li> </ul> |
| <p>Allowing off-site pharmacy reviews</p>  | <p>Yes but not as a waiver</p> | <ul style="list-style-type: none"> <li>• CMS did not deny this request; they simply did not address it. Continue working with your pharmacy consultant to meet the requirement at 42 CFR 483.45(c) for monthly drug regimen review in the way that makes the most sense for your nursing home.</li> </ul>   |
| <p>Relaxing requirements to allow all sites to function as training sites for certified nurse assistant's clinical hour requirements</p> | <p>No<br/>However...</p>       | <ul style="list-style-type: none"> <li>• The waiver is allowing a SNF or NF to employ anyone (CNAs) for longer than four months even if they have not met the training requirements under 42 CFR 483.35(d).</li> <li>• The individual must be competent to provide nursing and nursing related services.</li> <li>• CMS is not waiving the demonstration of the competency of the nurse aide to care for the resident.</li> </ul>   |
| <p>Waive Pre-Admission Screening and Annual Resident Review (PASRR)</p>  | <p>Yes<br/>And</p>             | <ul style="list-style-type: none"> <li>• Allowing states and nursing homes to suspend these</li> </ul>  |

|  |            |   |
|--|------------|---|
|  | No         | assessments for new residents for 30 days. After 30 days, new patients admitted to nursing homes with mental illness (MI) or intellectual disability (ID) should receive the assessment as soon as resources become available.  |
| Evacuating facilities to provide services in alternative settings                            | Yes and No | <ul style="list-style-type: none"> <li>• CMS has outlined waivers for Physical Environment (see below)</li> </ul>   |
| Relaxing provider participation requirements to provisionally, temporarily, enroll providers | Yes        | <ul style="list-style-type: none"> <li>• Toll free hotlines established for providers and Part A beneficiaries.</li> <li>• Flexibilities provided: 1. Waive certain screening requirements, 2. Postpone all revalidation actions and 3. Expedite and pending or new applications from providers.</li> </ul> |

In addition to the items included in LeadingAge’s 1135 waiver request, the following provisions are included in the nursing home waivers:

*Cost Reporting*

- CMS is delaying the filing deadline of certain cost report due dates due to the COVID-19 outbreak.

*New 4/26 Accelerated/Advanced Payments*

- CMS will **not** be accepting any new applications for the Advance Payment Program, and CMS will be reevaluating all pending and new applications for Accelerated Payments. [Details are available](#) from CMS.
- CMS is authorized to provide accelerated or advance payments during the period of the public health emergency to any Medicare provider/supplier who submits a request to the appropriate Medicare Administrative Contractor (MAC) and meets the required qualifications.

*Resident Groups*

- CMS is waiving the requirement to allow residents to have the right to have in-person group meetings.

*Physical Environment*

- CMS is allowing a non – SNF building to be temporarily certified and used by the SNF in the event there are needs for isolation processes for COVID-19 positive residents.
- In addition, CMS will waive certain conditions of participation and certification requirements to open the NF.
- CMS is also allowing rooms to be used in a SNF that normally would not be a resident room, in the need for surge capacity. The types of rooms could be a dining room, activity room – as long as the resident is safe and comfortable. – Surge Capacity

#### *Resident Roommates and Groupings*

- For grouping and cohorting focused on residents who are symptomatic and/or asymptomatic, CMS is waiving the resident’s right to share a room with a resident of their choice, to provide notice and rationale to change a resident’s room and the resident’s refusal to transfer to another room.

#### *Resident Transfer and Discharge*

- CMS is waiving the requirements for a SNF to transfer or discharge a resident for the sole purpose of cohorting. The transfer or discharged resident could be with or without respiratory symptoms, positive for COVID-19 or signs/symptoms to be observed for 14 days at the receiving facility. No matter what the transfer/discharge reason the facility must be dedicated to taking care of the resident and have the ability to prevent the spread.