



**Center for Clinical Standards and Quality/Quality, Safety & Oversight Group**

Ref: QSO-20-26-NH

**DATE:** April 19, 2020

**TO:** State Survey Agency Directors

**FROM:** Director  
Quality, Safety & Oversight Group

**SUBJECT:** Upcoming Requirements for Notification of Confirmed COVID-19 (or COVID-19 Persons under Investigation) Among Residents and Staff in Nursing Homes

**Memorandum Summary**

- ***CMS is committed*** to taking critical steps to ensure America's health care facilities are prepared to respond to the 2019 Novel Coronavirus (COVID-19) Public Health Emergency (PHE).
- ***Communicable Disease Reporting Requirements:*** To ensure appropriate tracking, response, and mitigation of COVID-19 in nursing homes, CMS is reinforcing an existing requirement that nursing homes must report communicable diseases, healthcare-associated infections, and potential outbreaks to State and Local health departments. In rulemaking that will follow, CMS is requiring facilities to report this data to the Centers for Disease Control and Prevention (CDC) in a standardized format and frequency defined by CMS and CDC. Failure to report cases of residents or staff who have confirmed COVID -19 and Persons under Investigation (PUI) could result in an enforcement action. This memorandum summarizes new requirements which will be put in place very soon.
- ***Transparency:*** CMS will also be previewing a new requirement for facilities to notify residents' and their representatives to keep them up to date on the conditions inside the facility, such as when new cases of COVID-19 occur.

**Background**

The Centers for Medicare & Medicaid Services (CMS) is responsible for ensuring the health and safety of nursing home residents by enforcing the standards required to help each resident attain or maintain their highest level of well-being. In light of the recent spread of COVID-19, we are providing additional direction to nursing homes to help control and prevent the spread of the disease.

To address this spread, CMS, which inspects Medicare and Medicaid-participating facilities in conjunction with State Survey Agencies to ensure compliance with Federal health and safety rules, has worked hand-in-hand with CDC to provide nursing homes with clear guidance on how they

can keep their residents safe.

## **Guidance**

Nursing homes are currently required to establish and maintain an infection prevention and control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of communicable diseases and infections.

This includes a system of surveillance designed to identify possible communicable diseases or infections before they can spread to other persons in the facility. Further, nursing homes are required to know when and to whom possible incidents of communicable disease or infections should be reported.

## **Facility Reporting**

Current requirements at 42 CFR 483.80 and CDC guidance specify that nursing homes notify State or Local health department about residents or staff with suspected or confirmed COVID-19, residents with severe respiratory infection resulting in hospitalization or death, or  $\geq 3$  residents or staff with new-onset respiratory symptoms within 72 hours of each other.

At present, these data are not collected by CMS, CDC, or the Federal Emergency Management Agency (FEMA). CMS and CDC will soon provide nursing homes with specific direction on standard formatting and frequency for reporting this information through the CDC's National Health Safety Network (NHSN) system. Currently, this information is provided optionally by nursing homes. The required collection of this information will be used to support surveillance of COVID-19 locally and nationally, monitor trends in infection rates, and inform public health policies and actions. This information may be retained and publicly reported in accordance with law.

## **Resident and Resident Representative Reporting**

In addition to requiring reporting to CDC, in rulemaking that will follow, we will also be requiring that facilities notify its residents and their representatives to keep them informed of the conditions inside the facility. This is separate from the reporting required to CDC in that this information will be shared by the nursing home directly with residents and their representatives. At a minimum, once these requirements are in place, nursing homes must inform residents and their representatives within 12 hours of the occurrence of a single confirmed infection of COVID-19, or three or more residents or staff with new-onset of respiratory symptoms that occur within 72 hours. Also, updates to residents and their representatives must be provided weekly, or each subsequent time a confirmed infection of COVID-19 is identified and/or whenever three or more residents or staff with new onset of respiratory symptoms occurs within 72 hours. Facilities will include information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations in the nursing home will be altered. This information must be reported in accordance with existing privacy regulations and statute.

In rulemaking that will follow this memorandum, failure to report resident or staff incidences of communicable disease or infection, including confirmed COVID-19 cases (or Persons Under Investigation for COVID-19), or provide timely notification to residents and their representatives of these incidences, as required, could result in an enforcement action against the nursing home by CMS.

## **Ongoing Public Health Surveillance**

Finally, to ensure access by appropriate public health entities at the Federal, State or Local level, nursing homes are reminded of the requirement at 42 CFR 483.10(f) (4)(i)(A) and (B) which mandates immediate access to any residents by any representative of the Secretary or State. The purpose of these visits will be for CDC (or its agents) to perform on-site infectious disease surveillance, testing of healthcare personnel and residents, or other related activities, as permitted under law.

The full CDC guidance to prepare nursing homes for COVID-19 can be found here:

[https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhealthcare-facilities%2Fprevent-spread-in-long-term-care-facilities.html#facilities-should-do](https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhealthcare-facilities%2Fprevent-spread-in-long-term-care-facilities.html#facilities-should-do)

These actions are necessary to ensure Federal, State and Local public health surveillance systems, and residents and their representatives, have the most complete information on COVID-19 cases in nursing homes to mitigate the spread and impact of COVID-19 on our most vulnerable citizens.

### **Contact**

Questions about this memorandum should be addressed to [DNH\\_TriageTeam@cms.hhs.gov](mailto:DNH_TriageTeam@cms.hhs.gov).

### **Effective Date**

This memorandum should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators immediately.

/s/

David R. Wright

cc: Survey and Operations Group Management