

COVID-19: CMS Regulatory Review

During these unprecedented times, our deepest concerns go out to those directly impacted by the COVID-19 pandemic and those on the frontline keeping residents of seniors housing and skilled nursing communities safe. We understand that seniors housing and skilled nursing operators are bearing tremendous burdens, and NIC applauds your efforts to protect and serve residents of seniors housing and skilled nursing communities.

NIC is responding by doing what we do best – delivering data, analytics, and connections – to continue to provide transparency to the sector.

COVID-19: CMS Actions Taken

The Centers for Medicare and Medicaid Services (CMS) have taken numerous actions in response to the coronavirus pandemic. The following are the latest summaries and links to CMS for further details, organized categorically.

Facilities

- **[CMS Facility without Walls \(Temporary Expansion Sites\)](#):** To ensure that local hospitals and health systems have the capacity to handle a potential surge of COVID-19 patients, CMS took action to allow temporary expansion sites (also known as CMS Hospital Without Walls). This means that a long-term care (LTC) facility can temporarily transfer its COVID-19 positive resident(s) to another facility. The facility that is transferring a resident does not have to issue a formal discharge in this situation because it will still be considered the provider and will bill Medicare. The facility transferring will then be responsible for reimbursing the other provider that accepted its resident(s) during the emergency period. This will help residents with COVID-19 by placing them into facilities that are prepared to care for them, which is consistent with recent CDC guidance. In addition, it will help residents without COVID-19 by placing them in facilities without other COVID-19 residents, which will mitigate the risk of spreading the virus.
- **[CMS Guidance to Long Term Care Properties](#):** The Centers for Medicare & Medicaid Services (CMS) and the Centers for Disease Control and Prevention (CDC) are issued new recommendations to State and local governments and long-term care facilities to help mitigate the spread of COVID-19. CMS issued new guidance while highlighting that long-term care facilities are a critical component of America's healthcare system and they are unique, as they serve as both healthcare providers and as full-time homes for some of the most vulnerable Americans. To address this spread, CMS, is working with CDC to provide nursing homes with clear guidance on how they can keep their residents safe. The recommendations include the following:

- **Coronavirus Stimulus Bill Includes \$200M for Nursing Home Infection-Control Efforts:** Given the fact that CMS has made infection control a priority for nursing and current surveys of nursing homes, this bill will put additional support behind the current efforts of CMS to help ensure the safety of nursing home residents and staff. In addition, this is targeted to help the states' efforts to prevent the spread of the virus.

Workforce & Labor

- **CMS Waives Workforce Training and Certification Requirements:** To stem pandemic-related staffing shortages, CMS is waiving a rule that says new aides cannot work longer than four months without becoming certified. The relief provides much-needed support to a workforce under tremendous strain.
- **Expansion of CMS Accelerated and Advance Payment Program:** The Centers for Medicare & Medicaid Services (CMS) is announced an expansion of its accelerated and advance payment program for Medicare participating health care providers and suppliers, to ensure they have the resources needed to combat COVID-19. Accelerated and advance Medicare payments provide emergency funding and addresses cash flow issues based on historical payments when there is disruption in claims submission and/or claims processing. CMS is expanding the program for all Medicare providers throughout the country during the public health emergency related to COVID-19. The payments can be requested by hospitals, doctors, durable medical equipment suppliers and other Medicare Part A and Part B providers and suppliers.

Regulatory & Telehealth

- **CMS Approves 12 Additional State Medicaid Waivers to Give States Flexibility to Address the Coronavirus Disease 2019 (COVID-19):** CMS approved an additional 10 state Medicaid waiver requests, bringing the total number of approved waivers for states to 23. The waivers offer states new flexibilities to focus their resources on combatting the outbreak and providing the best possible care to Medicaid beneficiaries in their states.
- **Emergency Preparedness and Response for Home and Community Based (HCBS) Waivers:** CMS approved one additional Appendix K Amendments requests to existing Home and Community Based Services (HCBS) Waivers under Section 1915 (c) of the Social Security Act (Act), bringing the total to 3 approved waivers to date. Appendix K is a tool states may use to temporarily modify approved HCBS Waivers during emergency situations.
- **New Guidance Regarding Enhanced Medicaid Funding for States – Federal Medical Assistance Percentage (FMAP):** CMS has released new guidance under the Families First Coronavirus Response Act that provides states with more federal Medicaid funding during the COVID-19 pandemic. This includes a 6.2 percentage point FMAP increase which all states are eligible for provided they meet certain requirements. This is effective beginning January 1, 2020 and extending through the last day of the calendar in which the public health emergency declared by the Secretary of Health and Human Services for COVID-19.

Surveys & Reporting

- **CMS is Prioritizing and Suspending Certain Surveys:** CMS is expanding Medicare’s telehealth benefits under the Coronavirus Preparedness and Response Supplemental Appropriations Act. Beneficiaries will be able to receive telehealth services in any healthcare facility including a physician’s office, hospital, nursing home or rural health clinic, as well as from their homes. Considering the safety of residents and the need to continue physician care within nursing homes, telehealth will enable care to still take place in addition to mitigating COVID-19 infection.

Timeline of Funding Packages and Select CMS Actions Taken

March 4: CMS Suspends All Non-Emergency Inspections

March 6: Phase 1: Coronavirus Preparedness & Response Supplemental Appropriations Act Passed

March 13: Telehealth Benefits Expanded with Emergency Declaration

March 18: Phase 2: Families First Coronavirus Response Act Passed

March 27: Phase 3: Coronavirus Aid, Relief & Economic Security Act (CARES) Passed

March 30: CMS Permits Hospitals Without Walls and Issues Waivers to Expand Healthcare Workforce