

MARCH 16, 2020

CMS MEMO OFFERS ADDITIONAL REVISED COVID-19 GUIDANCE FOR SKILLED NURSING FACILITIES

On March 13, 2020, the Quality, Safety & Oversight Group at the Centers for Medicare & Medicaid Services ("CMS") issued a second revision of a **memorandum** entitled "Guidance for Infection Control and Prevention of Coronavirus Disease 2019 ("COVID-19") in nursing homes (REVISED)" ("QSO Memo") that announced recommendations for skilled nursing facilities ("SNFs") regarding restricting visitors, transfers to hospitals and accepting a resident diagnosed with COVID-19.

BACKGROUND

Federal skilled nursing facility regulations, 42 CFR §483.10(f)(4), and Appendix PP of the State Operations Manual provide that a SNF may need to restrict or limit visitation rights for reasonable clinical and safety reasons to prevent community-associated infection or communicable disease transmission to the resident.

VISITOR RESTRICTIONS

The QSO Memo revises prior CMS guidance and instructs that SNFs should restrict visitation by all visitors and non-essential health care personnel.

■ **Exceptions for Compassionate Care and End-of-Life Situations**

CMS provides exemptions for certain compassionate care situations, such as end-of-life and shall limit access to certain specific rooms for those visits.

SNFs should decide compassionate care and end-of-life visitations on a case-by-case situation. Any assessment of visitation should be made after careful screening of any potential visitor for fever or respiratory symptoms. Any potential visitor with symptoms of a respiratory infection (fever, cough, shortness of breath or sore throat) should not be permitted to enter the SNF at any time (even in end-of-life situations). Those visitors that are permitted must: (1) wear Personal Protective Equipment ("PPE"), such as facemasks, while in the building; (2) perform hand hygiene; and (3) restrict their visit to the resident's room or other location designated by the SNF.

■ **Notice to Potential Visitors**

SNFs are expected to communicate to potential visitors with signs, calls, letters and other methods to notify them to defer visitation until further notice.

■ **State Mandates that Exceed QSO Memo Restrictions**

The QSO Memo provides that if a state implements actions that exceed CMS requirements, such as a ban on all visitation through a governor's executive order, a SNF would not be out of compliance with CMS's requirements.

If a stricter state mandate occurs, CMS directs that surveyors not cite for noncompliance with visitation requirements.

EXCEPTIONS TO VISITOR RESTRICTIONS

The QSO Memo identifies the following exceptions to the visitor restrictions:

■ **Health Care Workers**

SNFs should follow CDC **guidelines** for restricting access to health care workers and that these apply to health care workers, such as hospice workers, EMS personnel or dialysis technicians, that provide care to residents. These groups of permissible visitors should be permitted to come into the SNF as long as the potential visitor meets the CDC guidelines for health care workers. SNFs should contact their local health department for questions and frequently review the CDC **website** dedicated to COVID-19 for health care professionals.

■ **Surveyors**

The QSO Memo notes that if a surveyor has been in a SNF with COVID-19 cases in the previous 14 days, but because the surveyor was wearing PPE effectively per CDC guidelines, the surveyor poses a low risk to transmission in the next SNF, and must be allowed to enter the SNF.

ACTIONS SNFS SHOULD TAKE NOW

The QSO Memo offers recommendations regarding restricting visitors to prevent the spread of COVID-19:

1. Cancel communal dining and all group activities, such as internal and external group activities.
2. Implement active screening of residents and staff for fever and respiratory symptoms.
3. Remind residents to practice social distancing and perform frequent hand hygiene.
4. Screen all staff at the beginning of an individual's shift for fever and respiratory symptoms. If staff is ill, have the individual put on a facemask and self-isolate at home.
5. For individuals allowed in the SNF for compassionate care or end-of-life situations, the SNF shall provide instruction before visitors enter the SNF and residents' rooms, on (a) hand hygiene, (b) limiting surfaces touched, and (c) use of PPE according to current SNF policy while in the resident's room. Individuals with fevers, other symptoms of COVID-19 or unable to demonstrate proper use of infection control techniques should be restricted from entry to the SNF.
6. SNFs should communicate through multiple means to inform individuals and nonessential health care personnel of the visitation restrictions, such as through signage at entrances/exits, letters, emails, phone calls and recorded messages for receiving calls.
7. SNFs should identify staff that work at multiple facilities (e.g., agency staff, regional or corporate staff, etc.) and actively screen and restrict them appropriately to ensure they do not place individuals in the SNF at risk for COVID-19.
8. SNFs should review and revise how they interact with volunteers, vendors and receiving supplies, agency staff, EMS personnel and equipment, transportation providers and practitioners, and take necessary actions to prevent any potential transmission.
9. Offer alternative means of communication for people who would otherwise visit, such as virtual communications (phone, video communication, etc.).
10. When visitation is necessary or allowable in those permitted compassionate care or end-of-life cases, SNFs should make efforts to allow for safe visitation for residents and loved ones, including suggesting refraining from physical contact with residents and others while in the SNF.
11. SNF residents still have the right to access the Ombudsman. However, Ombudsman access should be restricted as any other permitted visitor and SNFs may assess this on a case by case basis.
12. SNFs should advise visitors and any individuals who entered the SNF to monitor for signs and symptoms of respiratory infection for at least 14 days after exiting the SNF. If symptoms occur, advise them to self-isolate at home, contact their health care provider and immediately notify the SNF.

TRANSFERS OF INFECTED RESIDENTS TO HOSPITAL

The QSO Memo calls for SNFs to contact their local health department if the SNF suspects it has a resident with the COVID-19 infection.

During any initial mild symptom period, CMS provides that the SNFs may keep the resident at the SNF rather than transfer the resident to a hospital as long as the SNF can follow the infection prevention and control practices **recommended** by CDC. SNFs that do not have an airborne infection isolation room are not required to transfer the resident assuming:

- Resident does not require a higher level of care; and
- SNF can adhere to the rest of the infection prevention and control practices recommended for caring for a resident with COVID-19.

If a resident develops more severe symptoms and requires transfer to a hospital for a higher level of care, the SNF is required to take certain steps. Prior to transfer, emergency medical services and the receiving provider should be alerted to the resident's diagnosis and precautions

to be taken including placing a facemask on the resident during transfer. If the resident does not require hospitalization, the resident can be discharged home, after consultation with state or local public health authorities, if deemed medically appropriate. Pending transfer or discharge, the SNF shall place a facemask on the resident and isolate the resident in a room with the door closed.

ACCEPTING A RESIDENT DIAGNOSED WITH COVID-19 FROM A HOSPITAL

The QSO Memo provides that a SNF can accept an individual diagnosed with COVID-19 from a hospital and still under transmission-based precautions for COVID-19 provided that the SNF follows CDC [guidance](#) for transmission-based precautions. If the SNF cannot follow CDC guidance for transmission-based precautions, the SNF must wait until these precautions are discontinued.

The QSO Memo states that SNFs should admit any individuals that they would normally admit to the SNF, including individuals from hospitals where a case of COVID-19 was/is present. CMS directs that, if possible, the SNF should dedicate a unit/wing exclusively for any residents coming or returning from such hospitals.

CITATIONS FOR LACK OF SUPPLIES

The QSO Memo directs that state and federal surveyors should not cite SNFs for not having certain supplies, including PPE, respirators and surgical masks, if the SNF is experiencing difficulty in obtaining these supplies for reasons outside of their control. CMS expects a SNF to take action to mitigate any resource shortages and show it is taking all appropriate steps to obtain the necessary supplies as soon as possible. If a surveyor believes a SNF should be cited for not having or providing the necessary supplies, the state agency should contact the CMS Regional Office.

NEXT ACTIONS: POLICY AND PRACTICE REVIEWS NEEDED

- SNFs should carefully review and revise their visitor, admissions and discharge/transfer policies and practices to incorporate these recommendations.
- SNFs should implement and communicate these policies and procedures to residents, staff, vendors and families.

If you have questions or would like additional information about this topic, please contact:

- [Sean Fahey](#) at (317) 977-1472 or sfahey@hallrender.com;
- [Todd Selby](#) at (317) 977-1440 or tselby@hallrender.com;
- [Brian Jent](#) at (317) 977-1402 or bjent@hallrender.com; or
- Your regular Hall Render attorney.

More information about Hall Render's Post-Acute and Long-Term Care services can be found [here](#).