

CMS ANNOUNCES PLAN TO REQUIRE NURSING HOMES TO NOTIFY RESIDENTS/REPRESENTATIVES OF THE PRESENCE OF COVID-19

April 22, 2020

On April 19, 2020, the Centers for Medicare & Medicaid Services (CMS) announced upcoming rulemaking which will require nursing homes to notify residents and resident representatives of the presence of COVID-19 cases within their facilities. Speaking at a White House briefing, CMS Administrator Seema Verma indicated that, “It’s important that patients and their families have the information that they need and they need to understand what’s going on in the nursing home,” adding that the effort would be an additional step toward lifting society-wide Coronavirus-related restrictions and stay-at-home orders. CMS published additional guidance regarding this effort on its website under [“QSO-20-26-NH.”](#) As CMS elaborated within this guidance:

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.

CMS further directed that “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” and should include information related to mitigation efforts and alterations to facility operations. CMS additionally clarified that any such reporting should be made in accordance with existing privacy rules.

WHAT THIS MEANS FOR PROVIDERS

Providers should continue to monitor for updates related to CMS rulemaking, as updated rules related to facility reporting of COVID-19 incidences are likely to be forthcoming, and CMS has indicated enforcement actions could be initiated against facilities that fail to comply. Facilities should also prepare additional procedures to ensure compliance with the above rules if and when they become effective. It is recommended that the reporting process involve routing communications regarding COVID-19 through designated channels within facility management in order to properly control applicable messaging, provide reassurances related to resident/visitor safety, and avoid creating unnecessary concern among residents. This process will likely require staff to ensure the confidentiality of any information which will be shared with residents and their representatives before those designated to communicate this information have an opportunity to do so appropriately and consistent with CMS rules.

If you have any questions or need further guidance regarding the upcoming rules regarding COVID-19 reporting for residents/resident representatives, please contact a member of Hancock Daniel's [Long-Term Care & Post-Acute Care](#) team.

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