

## CMS ISSUES ADDITIONAL COVID-19 VISITATION GUIDELINES FOR ICF/IIDS AND PRTFS

April 8, 2021

On February 10, 2021, the Centers for Medicaid & Medicaid Services (“CMS”) issued [guidance](#) regarding visitation at Intermediate Care Facilities for Individuals with Intellectual Disabilities (“ICF/IIDs”) and Psychiatric Residential Treatment Facilities (“PRTFs”). CMS recognized that patients in ICF/IIDs and PRTFs living with an intellectual disability and/or a severe mental illness may find visitor restrictions related to COVID-19 confusing or upsetting.

Under the guidance, facilities are directed to ensure that visitation policies do not infringe on the patient’s civil rights. Each facility must comply with federal disability rights laws and may be obligated to permit in-person visits for individuals with disabilities even if the facility is limiting in-person visitation. This is of increasing importance given that the Office of Civil Rights has closely monitored visitation policies in all health care settings.

Accordingly, facilities are directed to make every effort to permit individuals to visit for compassionate care situations, visits by Protection & Advocacy Programs, in-person supports necessary for equal access to care and effective communication under disability rights laws; and outside healthcare and service providers. Unless the visitor has COVID-19 symptoms or refuses to comply with the facility’s infection control practices, visitation should proceed. Importantly, the guidance makes clear that the term “compassionate care situations” does not exclusively refer to end-of-life situations. Examples of other types of compassionate care situations may include:

- A client/resident who was living with their family before recently being admitted to an ICF/IID or PRTF and is struggling with the change in environment and lack of physical family support.
- A client/resident who needs cueing and encouragement with daily care needs such as eating, drinking, or hygiene, previously provided by family and/or caregiver(s). This may be especially significant for minors.
- A client/resident who is used to talking and interacting with others, is experiencing emotional distress, seldom speaking, or crying more frequently (when the client/resident had rarely cried in the past).

In addition to family members and caregivers, any individual that can meet the client/resident’s needs, such as clergy or laypersons offering religious or spiritual support, can conduct compassionate care visits. While CMS leaves the specifics of visitation policies to the discretion of the facilities, the recent guidance offers several “guardrails” which should be followed except where they prevent a necessary accommodation, some of which are listed below:

- Facilities should transparently communicate visitation protocols through various means (e.g., website, phone, text, and posted notices) to visitors as far as possible in advance.
- Facilities should screen and triage all visitors who enter the facility for signs and symptoms of COVID-19 and deny entry of those with signs or symptoms.
- Facilities should have a process to limit both the number of visitors and the number of visits (maximum visitors occurring simultaneously to support safe infection prevention actions, (e.g., maintaining social physical distancing).
- Visitors should limit their movement to see only the client/resident they are visiting and should not go to other locations in the facility.
- Facilities should routinely clean and disinfect frequently touched surfaces in the facility and designated visitation areas after each visit.
- Outdoor visitation should be facilitated routinely unless weather considerations (e.g., inclement weather, excessively hot or cold temperatures, poor air quality), an individual's health status (e.g., medical condition(s), COVID-19 status), or a facility's outbreak status make these options untenable.
  - When conducting outdoor visitation, facilities should set the time duration for each visit and should have a process to limit the number and size of visits occurring simultaneously to support safe infection prevention actions (e.g., maintaining physical distancing).
- When permissible, facilities should “consider ventilation system upgrades or improvements and other steps to increase the delivery of clean air and dilute potential contaminants.”

For questions on this or other COVID-19 related issues, please contact a member of Hancock Daniel's [COVID-19 Task Force](#).

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