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CMS Memo on Reporting Confirmed Cases

Late Sunday, CMS announced that it will be releasing new requirements for reporting and notification of confirmed COVID-19 among residents and staff.

CMS will be issuing these requirements through rulemaking in the coming days. These requirements will go into effect once the rule is issued. We don't know at this time whether CMS will accept public comments upon issuance of the rule.

These new requirements will update previous notification guidelines shared by AHCA/NCAL for confirmed COVID-19 cases. We will share revised guidance and support materials once the regulations are released.

The announcement by CMS late Sunday applies only to nursing homes, so assisted living communities and facilities that serve the ID/DD population should continue to follow AHCA/NCAL's guidance on notifications.

Notification of Confirmed or Suspected COVID-19

CMS and CDC will soon issue direction on standard formatting and frequency for all providers to report this information through the CDC's National Health Safety Network (NHSN) system. CMS states this information will be used to support local and national surveillance, monitor trends in infection rates, and inform public health policies and actions. The information may be publicly reported.

Current CDC guidance specifies 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 3 or more residents or staff with new-onset respiratory symptoms within 72 hours of each other.

Notifying Residents and their Representatives

In addition, CMS will also issue through rulemaking new requirements to notify residents and their representatives to provide updates on new cases of COVID-19, new suspected cases, and facility actions and responses.

Specifically, nursing homes will be required to inform residents and their representatives **within 12 hours** of:

1. The occurrence of a single confirmed infection of COVID-19, or
2. The occurrence of three or more residents or staff with new onset of respiratory symptoms that occur within 72 hours.

Regardless of whether there are new confirmed infections or three or more residents or staff with new onset of symptoms in 72 hours, nursing homes will have to provide updates on the facility's status to residents and their representatives at least weekly.

These notices must include information on mitigating actions implemented to prevent or reduce the risk of transmission, including any changes to facility operations.

The memo states this information must be reported in accordance with existing privacy regulations and statute, and we are requesting clarification on how this will be operationalized given these new notification requirements.

For compliance purposes, it is essential that providers keep records of notifications that have been made.

Additional Requirements

The memo states that failures to report confirmed or suspected cases or failure to provide required notifications to residents and representatives, could result in an enforcement action by CMS.

CMS reminds providers of the requirements to permit access to nursing home residents and representatives by any representative of the Secretary or the State, in accordance with regulatory requirements at §483.10(f) (4)(i)(A) and (B). CMS indicates CDC may conduct additional on-site infectious disease surveillance, testing of healthcare personnel and residents, or other related activities, as permitted under law. We will provide further information on this as soon as it is available.

These requirements will go into effect once rulemaking is issued.

Questions for CMS should be addressed to DNH_TriageTeam@cms.hhs.gov.

Communication Strategies for Keeping Families Up to Date

Effective communication is always important but is critical in this COVID-19 environment with heightened emotions, fear of the unknown, and restrictions

on family member in-person visitation. Family members want to know that their loved one is safe, that providers are doing everything possible to protect their loved ones, and to feel a sense of connectedness especially because they can't be with their loved ones.

[AHCA/NCAL has developed some potential tactics and strategies to keep family members and loved ones up to date](#).

AHCA Skilled SNF Coverage Decisions Under COVID-19 Waivers Flowcharts

CMS recently updated their [SNF Medicare Part A coverage waiver guidance](#). AHCA has developed visual flowchart guidance to help providers understand when longstanding CMS SNF Part A coverage policies apply, or when and how the Section 1135 waivers may be applied in various scenarios, including admissions and readmissions from hospitals, direct admissions from the community, and whether a SNF long-stay resident can be "skilled-in-place".

Below are links to documents that contain flowcharts and step-by-step guidance to help providers identify whether a particular beneficiary is eligible for Part A benefits under: 1) normal coverage policies, 2) the COVID-19 3-day stay waiver, or 3) the COVID-19 spell-of-illness waiver, as well how a claim can be coded to indicate that a COVID-19 waiver applied to the beneficiary.

- [Beneficiary is Hospital Inpatient (Community Admission or SNF Readmission)](#)
- [Beneficiary Admission From Community, ER, or Hospital Observation Stay](#)
- [Beneficiary is SNF Long Term Care Resident (Skill-in-Place)](#)

Please email COVID19@ahca.org for additional questions, or visit [ahcancal.org/coronavirus](#) for more information.

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