



April 20, 2020

## Centers for Medicare & Medicaid Services Guidance

### Re-Opening Facilities for Non-Emergent Non-COVID Care (Phase I) and Notice of Upcoming Reporting Rules for Nursing Homes

#### CMS Recommendations to Re-Open Facilities to Provide Non-Emergent Non-COVID-19 Health Care – Phase I

CMS has [issued recommendations](#) to re-open facilities to provide non-emergent non-COVID-19 health care.

These recommendations apply if states or regions have passed the [White House Gating Criteria](#), which were announced on April 16, 2020. CMS notes that these recommendations are the first in what will be a series of recommendations to guide health care systems and facilities as they consider resuming in-person care for non-COVID-19 patients in regions with low incidence of COVID-19 disease. CMS still strongly encourages the maximum use of all telehealth modalities.

#### **Key Considerations:**

- Non-COVID-19 care should be offered as clinically appropriate if the state, locality, or facility has the resources to provide such care and the ability to quickly respond to a surge in COVID-19 cases if necessary.
- Re-opening decisions should be consistent with public health information and in collaboration with state public health authorities, and be pursuant to careful planning that considers all aspects of care, such as:
  - Adequate facilities, workforce, testing, and supplies
  - Adequate workforce across phases of care (e.g., availability of clinicians, nurses, anesthesiologists, pharmacy, imaging, pathology support, and post-acute care)

#### **Recommendations:**

Health care systems or clinicians “have flexibility” to re-start clinically necessary care for non-COVID-19 needs or complex chronic disease management requirements pursuant to the below General Considerations. CMS notes that all facilities should continue to evaluate whether the region remains a low risk of incidence and be prepared to again cease non-essential procedures if there is a surge.

**General Considerations:**

- Evaluate incidence and trends for COVID-19 in the area
- Evaluate the necessity of the care based on clinical needs, prioritizing surgical/procedural care and high-complexity chronic disease management (select preventive services may also be “highly necessary”)
- Consider establishing Non-COVID Care (NCC) zones to screen all patients; routinely screen staff
- Sufficient resources should be available (e.g., personal protective equipment, healthy workforce, available facilities, testing capacity, post-acute care) without jeopardizing surge capacity

**Personal Protective Equipment (PPE) Considerations:**

- Health care providers and staff should wear surgical facemasks at all times; utilize N95 masks and face shields for procedures with a higher risk of aerosol transmission
- Patients should wear a cloth face covering if they do not possess surgical masks
- Continue to conserve PPE

**Workforce Availability Considerations:**

- Routinely screen staff and test and quarantine as necessary
- Staffing levels in the community “must remain adequate” to cover a potential COVID-19 surge

**Facility Considerations:**

- Create NCC areas with steps to reduce the risk of COVID-19 exposure and transmission – these should be separate from other facilities as possible
- Establish administrative and engineering controls to facilitate social distancing
- Prohibit visitors, but if necessary for an aspect of patient care, they should be pre-screened in the same way as patients

**Sanitation Protocols:**

- Establish plan for thorough cleaning and disinfection prior to using space or facilities for Non-COVID care (NCC)
- Thoroughly decontaminate equipment used for COVID-19 positive patients (e.g., anesthesia machines) following CDC guidelines

**Supplies:**

- Ensure adequate supplies of equipment, medication, and supplies that do not detract from the community’s ability to respond to a potential COVID-19 surge

**Testing Capacity:**

- Screen all patients for potential COVID-19 symptoms prior to entering NCC zone; routinely screen staff as noted above
- Screen patients and staff by lab testing before care (once adequate testing capability is established)

## **CMS Issues Notice of Upcoming Reporting Rules for Nursing Homes**

In light of the recent spread of COVID-19, CMS is providing [additional direction](#) to nursing homes to help control and prevent the spread of the disease. Rulemaking implementing these notifications requirements will fall shortly.

### ***Communicable Disease Reporting Requirements:***

To ensure appropriate tracking, response, and mitigation of COVID-19 in nursing homes, CMS is reinforcing an existing requirement (42 CFR 483.30 and CDC guidance) that nursing homes must report communicable diseases, healthcare-associated infections, and potential outbreaks to State and Local health departments. Specifically, nursing homes must provide notification about residents or staff with suspected or confirmed COVID-19, residents with severe respiratory infection resulting in hospitalization or death, or  $\geq 3$  residents or staff with new-onset respiratory symptoms within 72 hours of each other.

In rulemaking that will follow, CMS is requiring facilities to report this data to the CDC in a standardized format and frequency defined by CMS and CDC. Failure to report could result in an enforcement action.

### ***Transparency:***

CMS is also instituting a new requirement for facilities to notify residents' and their representatives to keep them up to date on the conditions inside the facility, such as when new cases of COVID-19 occur. 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. Also, 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. Facilities will include information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations in the nursing home will be altered. This information must be reported in accordance with existing privacy regulations and statute. In rulemaking that will follow this memorandum, failure to report resident or staff incidences of communicable disease or infection, including confirmed COVID-19 cases (or Persons Under Investigation for COVID-19), or provide timely notification to residents and their representatives of these incidences, as required, could result in an enforcement action against the nursing home by CMS.