

WELCOME!

Team TSI

CMS Blanket Waivers Mapped to Survey Tags

Developed by W. H. Heaton
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Today's Session Goals

- Provide an **overview** of the CMS Emergency Blanket Waivers.
- **Focus Areas:**
 - A review of each waiver.
 - Identify the survey tag(s) associated with each waiver.
 - Discuss the regulatory process that is affected by the waiver; and
 - Discuss the regulatory process that is NOT affected by the waiver.

Staffing Data Submission

- CMS is waiving 42 CFR §483.70(q) to provide relief to long-term care facilities on the requirements for submitting staffing data through the Payroll-Based Journal system.
- Applies to §483.70(q)(1)-(5) **[F851]**.
- Does **NOT** eliminate the reporting.
- Only waives the **timeframe** for data submission.
- Data is used to **report** average number of **nursing** staff and **total** staff onsite each day.
- CMS, CDC, and OSHA will **ask** for employee information.



MDS Assessments & Transmission

- CMS is **waiving** 42 CFR §483.20 to provide **relief** to SNFs on the **timeframe requirements** for Minimum Data Set assessments and transmission.
- **Applies** to §483.20(b)(2)(i)-(iii); (c); (f) **[F636; F637; F638; F640]**
- Does **NOT** waive the completion of the MDS.
- Only waives the **timeframe** for MDS completion.
- Does **NOT** waive the **completion** of the **care plan** except for COVID-19 transfers and discharges.
- Waiver does **NOT** apply to **F641**-Accuracy of Assessments or **F642**-Coordination/Certification of Assessments.

PASARR

- CMS is **waiving** 42 CFR §483.20(k), allowing nursing homes to **admit new residents who have not received Level 1 or Level 2 Preadmission Screening.**
- **Applies to §483.20(k)(1)-(3) [F645].**
- Does **NOT** waive the **completion** of the PASARR Screening.
- Only waives the **timeframe** for its completion.
- **Level I** may be performed post-admission.
- **Level II** should be scheduled on or before the **30th day** of admission.
- Waiver does **NOT** apply to **F644**-Coordination of Assessment or **F646**-MD/ID Significant Change Notification.

Resident Groups

- CMS is **waiving** the requirements at 42 CFR §483.10(f)(5), which ensure residents can participate in-person in resident groups.
- **Applies** to §483.10(f)(5)(i)(ii) **[F565]**. *SQC Tag*.
- Waiver does **NOT** remove the resident's right to participate in family/resident groups.
- It **only** waives the **IN-PERSON** meeting requirement during the PHE.
- The waiver does **NOT** affect the **remaining** resident group requirements at §483.10(f)(5)(iii); (iv); (f)(6); or (f)(7) as they relate to providing assistance, views and grievances, right to participate, and right to have family or representative present.

Resident Roommates and Grouping

- CMS is **waiving** the requirements in 42 CFR §483.10(e)(5), (6), and (7) **solely for the purposes** of **grouping** or **cohorting** residents with respiratory illness symptoms and/or residents with a **confirmed** diagnosis of COVID-19, and **separating** them from residents who are **asymptomatic** or **tested negative** for COVID-19. **[F559]** SQC Tag.
- This action **waives a facility's requirements**, under 42 CFR §483.10(e)(7), to **provide** for a resident to **share a room with his or her roommate of choice** in **certain circumstances**, to provide **notice** and **rationale** for **changing** a resident's room, and to provide for a resident's **refusal** of a transfer to another room in the facility. **[F560]**
- The waiver did **NOT** include §483.10(e)(4). Married couples sharing a room.

Clinical Records

- CMS is **modifying** the requirement at 42 CFR §483.10(g)(2)(ii) which **requires** long-term care (LTC) facilities to **provide** a resident a **copy** of their **records** within **two** working days (when requested by the resident).
- **Applies** to §483.10(g)(2)(ii) **[F573]**.
- The waiver **only** applies to the **timeframe** requirements for providing copies of records.
- **Rather** than **two** (2) days, the facility has **ten (10) days**.
- The waiver does **not** affect the **requirements** at §483.10(g)(2)(i) – Providing access to records within 24 hours, or §483.10(g)(3) – Format and manner in which records are provided to the resident.

QAPI Program

- CMS is modifying certain requirements in 42 CFR §483.75, which requires long-term care facilities to develop, implement, evaluate, and maintain an **effective, comprehensive, data driven QAPI** program.
- **Specifically, CMS is modifying §483.75(b)(c)(d) and (e)(3) to the extent necessary to narrow the scope of the QAPI program to focus on adverse events and infection control. [F865; F866; F867]**
- The waiver does **not** eliminate the **QAPI** program requirements. It only moves the **focus** to adverse events and infection control.
- The waiver does **not** affect the requirements at **F868**-Maintaining a QAA Committee.

Nurse Aide In-Service Training

- CMS is **modifying** the nurse aide training requirements at §483.95(g)(1) for SNFs and NFs, which requires the nursing assistant to **receive at least 12 hours** of in-service training **annually**.
- **Applies** to §483.95(g)(1) **[F947]**.
- The waiver does **not** eliminate the requirement to provide in-service training. It only **extends** the **12-hour annual** requirement until the **end** of the **first full quarter** after the **PHE** concludes.
- In-service training **must** still be **provided** when **competency** issues are **identified** and upon **new** employment of nurse aides.
- The waiver does **not** affect the requirements at §483.95(g)(2); (3); (4) which **pertain** to dementia and abuse prevention training, performance reviews, and care of the cognitively impaired.



Training and Certification of Nurse Aides

- CMS is **waiving** the requirements at 42 CFR §483.35(d) (with the **exception** of 42 CFR §483.35(d)(1)(i)), which require that a SNF and NF may **not** employ **anyone** for longer than **four** months **unless** they met the training and certification requirements under §483.35(d).
- **Applies** to §483.35(d)(1)(ii); (d)(2)(3); (d)(6); (d)(7) **[F728] [F729] [F730]**.
- **CMS is not waiving** 42 CFR §483.35(d)(1)(i) which requires facilities to **not use** any individual working as a nurse aide for more than four months, on a full-time basis, **unless** that individual is **competent** to **provide** nursing and nursing related services. **[F728]**
- CMS further notes that they are **not waiving** §483.35(c), which **requires** facilities to **ensure** that nurse aides are able to **demonstrate competency** in skills and techniques **necessary** to care for residents' needs, as **identified** through resident **assessments**, and described in the **plan of care**. **[F726]**

Resident Transfers and Discharges

- CMS is **waiving** requirements in 42 CFR 483.10(c)(5); 483.15(c)(3), (c)(4)(ii), (c)(5)(i) and (iv), (c)(9), and (d); and §483.21(a)(1)(i), (a)(2)(i), and (b)(2)(i) (with some exceptions) to allow the facility to **transfer or discharge** residents to another LTC facility **solely for the following cohorting purposes**:
 1. **Transferring** residents with **symptoms** of a respiratory infection or **confirmed** diagnosis of COVID-19 to another facility that **agrees** to accept each specific resident, and is dedicated to the care of such residents;
 2. **Transferring** residents **without** symptoms of a respiratory infection or confirmed to **not** have COVID-19 to another facility that **agrees** to accept each specific resident, and is dedicated to the care of such residents to prevent them from acquiring COVID-19, or
 3. **Transferring** residents **without** symptoms of a respiratory infection to another facility that **agrees** to accept each **specific** resident to **observe** for any signs or symptoms of a respiratory infection over 14 days.

EXCEPTIONS to Resident Transfers and Discharges

- These requirements are **only** waived in cases where the **transferring** facility receives **confirmation** that the **receiving** facility **agrees to accept** the resident to be transferred or discharged. Confirmation may be in **writing** or **verbal**. If verbal, the transferring facility needs to **document** the date, time, and person that the **receiving** facility communicated agreement.
- In §483.10, CMS is **only waiving** the requirement, under **§483.10(c)(5)**, that a facility provide **advance notification of options relating** to the transfer or discharge to **another** facility. **Otherwise, all requirements related to §483.10 are not waived.** [F552]
- **Similarly**, in §483.15, CMS is **only waiving** the requirement, under **§483.15(c)(3), (c)(4)(ii), (c)(5)(i) and (iv), and (d)**, for the **written notice** of transfer or discharge to be provided **before** the transfer or discharge. This notice must be provided as soon as practicable. [F623; F625]



EXCEPTIONS to Resident Transfers/Discharges-cont'd

- In §483.21, CMS is only waiving the timeframes for certain care planning requirements for residents who are transferred or discharged for the purposes explained in 1–3 above. (§483.21(a)(1)(i); (a)(2)(i); (b)(2)(i) [F655; F657].
- Receiving facilities should complete the required care plans as soon as practicable, and we expect receiving facilities to review and use the care plans for residents from the transferring facility, and adjust as necessary to protect the health and safety of the residents they apply to.
- These requirements are also waived when transferring residents to another facility, such as a COVID-19 isolation and treatment location, with the provision of services “under arrangements,” as long as it is not inconsistent with a state’s emergency preparedness or pandemic plan, or as directed by the local or state health department.

EXCEPTIONS to Resident Transfers/Discharges-cont'd

- In these cases, the transferring LTC facility need not issue a formal discharge, as it is still considered the provider and should bill Medicare normally for each day of care. The transferring facility is then responsible for reimbursing the other provider that accepted its resident(s) during the emergency period.
- If the transferring facility does not intend to provide services under arrangement, the COVID-19 isolation and treatment facility is the responsible entity for Medicare billing purposes. The LTC facility should follow the procedures described in 40.3.4 of the Medicare Claims Processing Manual to submit a discharge bill to Medicare. The COVID-19 isolation and treatment facility should then bill Medicare appropriately for the type of care it is providing for the beneficiary

EXCEPTIONS to Resident Transfers/Discharges-cont'd

- If the COVID-19 isolation and treatment facility is **not yet an enrolled provider**, the facility should **enroll** through the provider enrollment hotline for the Medicare Administrative Contractor that services their geographic area to establish temporary Medicare billing privileges.
- CMS reminds LTC facilities that they are **responsible** for ensuring that **any** transfers (either within a facility, or to another facility) are **conducted** in a safe and orderly manner, and that each resident's health and safety is protected.



Discharge Planning

- CMS is **waiving** the **discharge planning** requirement **§483.21(c)(1)(viii)**, which requires LTC facilities to **assist** residents and their representatives in **selecting** a post-acute care provider **using** data, such as **standardized** patient assessment data, **quality measures** and **resource** use.
- **Applies** to §483.21(c)(1)(viii) **[F660]**.
- The waiver **only** applies to providing **MDS, QM, and Resource** use data to the resident.
- CMS is **maintaining all other discharge planning requirements**.
- The waiver does **not** affect other discharge planning requirements at §483.21(c)(1)(i)-(vii); (ix), and §483.21(c)(2)-Discharge Summary **[F661]**.

Physician Visits

- CMS is **waiving** the requirement at **§483.30(c)(3)** that all required **physician visits** (not already exempted in §483.30(c)(4) and (f)) must be made by the **physician personally**. CMS is **modifying** this provision to **permit** physicians to **delegate any required physician visit** to a nurse practitioner (NPs), physician assistant, or clinical nurse specialist who is **not an employee** of the **facility**, who is **working in collaboration** with a physician, and who is **licensed** by the State and performing within the state's scope of practice laws.
- **Applies** to §483.30(c)(3); (c)(4); and (f). **[F712] [F714]**
- This waiver **only modifies** that the visit has to be made **personally** by the physician.
- CMS is **not** waiving the frequency of visit requirements (§483.35(c)(1) **[F712]**), physician supervision requirements (§483.30(a)(1) **[F710]**), or availability of emergency physician care (§483.30(d). **[F713]**)

Physician Delegation of Tasks in SNFs

- CMS is **waiving** the requirement in §483.30(e)(4) that **prevents** a physician from **delegating** a task when the regulations **specify** that the physician must perform it personally. **[F714]**
- This waiver gives physicians the **ability** to **delegate any tasks** to a physician assistant, nurse practitioner, or clinical nurse specialist who **meets** the applicable definition in 42 CFR 491.2 or, in the case of a clinical nurse specialist, is **licensed** as such by the State and is acting **within** the scope of practice laws as defined by State law.
- CMS is **temporarily modifying** this regulation to specify that **any task** delegated under this waiver must **continue** to be under the **supervision** of the physician. (§483.30(e)(1)(iii). **[F714]**.
- This waiver **does not include** the provision of §483.30(e)(4) that **prohibits** a physician from delegating a task **when the delegation is prohibited** under State law or by the facility's own policy. **[F714]**

Physical Environment

- CMS is **waiving** requirements related at 42 CFR §483.90, specifically the following:
- 42 CFR §483.90 **require facilities** and their **equipment** to be maintained to ensure an **acceptable** level of safety and quality. CMS is **temporarily modifying** these requirements to the extent necessary to **permit** these facilities to **adjust scheduled inspection**, testing, and maintenance (ITM) frequencies and activities for facility and medical equipment.
- **§483.90(a)(1)(i)** and **(b)** requires facilities to be in compliance with the Life Safety Code (**LSC**) and Health Care Facilities Code (**HCFC**). CMS is **temporarily modifying** these provisions to the extent necessary to **permit** facilities to **adjust** scheduled ITM frequencies and activities required by the LSC and HCFC.

Physical Environment – Cont'd

- **The following LSC and HCFC ITM are considered critical are not included in this waiver:**
 - Sprinkler system monthly electric motor-driven and weekly diesel engine-driven fire pump testing. **(K353)**
 - Portable fire extinguisher monthly inspection. **(K355)**
 - Elevators with firefighters' emergency operations monthly testing. **(K531)**
 - Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing. **(K918) (F906)**
 - Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency. **(K211).**

Physical Environment – Cont'd

- §483.90(a)(7) require facilities to have an **outside window** or **outside door** in every sleeping room. **[F915]**
- CMS will **permit a waiver** of these **outside window** and **outside door** requirements to permit these providers to **utilize** facility and **non-facility** space that is **not normally** used for patient care to be **utilized** for **temporary** patient care or quarantine.
- This waiver does **NOT** eliminate the scheduled maintenance program, it only **permits** the facility to **temporarily** modify its inspection, testing, and maintenance program for **non-critical** items and to **permit** the use of **rooms** that do **not** have an outside window or outside door.

Paid Feeding Assistants

- CMS is **modifying** the requirements at 42 CFR §483.60(h)(1)(i) **[F811]** and §483.160(a) regarding required training of paid feeding assistants. **Specifically**, CMS is **modifying** the minimum **timeframe** requirements in these sections, which require this training to be a minimum of 8 hours. CMS is **modifying to allow** that the training can be a **minimum of 1 hour in length**.
- CMS is **not** waiving any **other** requirements under 42 CFR §483.60(h) related to paid feeding assistants or the required training content at 42 CFR §483.160(a)(1)-(8), which **contains** infection control training and other elements.
- **Additionally**, CMS is also **not waiving** or **modifying** the requirements at 42 CFR §483.60(h)(2)(i), which requires that a feeding assistant **must work under the supervision** of a registered nurse (RN) or licensed practical nurse (LPN).
- Waiver does **NOT** include requirements at: §483.60(h)(1)(ii); (h)(2)(i)(ii); or (h)(3)(i)(ii)(iii). **[F811]**

Coronavirus Waivers & Flexibilities

- The **CMS** link below includes **approved** Coronavirus 1135 Waiver by State.
- Once on the site, scroll to the **bottom** of the page and click on your particular State to review any additional information your State may have included in its waiver.
- <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>



We want to hear from you!

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