COVID-19: ADVOCATING FOR NURSING HOME RESIDENTS, PART V

May 22, 2020
Agenda

I. Introduction and housekeeping
II. CMS’s Nursing Home Reopening Recommendations
III. Tips for Advocates
IV. GAO Report on Infection Control in Nursing Homes
V. Reporting Requirements
VI. Q&A/Discussion
• Eric Carlson, Directing Attorney, Justice in Aging
• Robyn Grant, Director of Public Policy & Advocacy, National Consumer Voice for Quality Long-Term Care
• Toby Edelman, Senior Policy Attorney, Center for Medicare Advocacy
• Richard Mollot, Executive Director, Long Term Care Community Coalition
Nursing Facility Reopening Recommendations from CMS

Eric Carlson, Directing Attorney

May 22, 2020
Recommendations for State and Local Officials

• Up to state to choose procedure for that state.
• Procedure may vary depending on region of state.

  • CMS, Nursing Home Reopening Recommendations for State and Local Officials, QSO-20-30-NH (May 18, 2020).
  • CMS, Nursing Home Reopening Recommendations Frequently Asked Questions (May 18, 2020).
Factors to Consider

• Level of community transmission.
• Case status in facility.
• Adequate staffing.
• Access to adequate testing.
  • Staff: baseline and then weekly.
  • Residents: baseline; if infection occurs, then weekly.
• Daily screening protocols, e.g., temperature checks, questions, observation.
• Facemasks and PPE.
• Adequate hospital capacity.
Follows “Opening Up America Again”

• Three phases.
• Nursing facilities lag behind rest of community by at least 14 days, because nursing facility residents face higher risk.
Phase One

- No visits except for “compassionate care.”
- Entry only for essential personnel.
- Communal dining and activities for COVID-negative residents, with social distancing.
- Weekly testing of staff.
- Residents tested if positive case is revealed; testing continues until all are COVID-negative.
Handling COVID-positive Residents

• All Phases require:
  • “Dedicated space in facility for cohorting and managing care for residents with COVID-19.”
  • “Plan to manage new/readmissions with an unknown COVID-19 status and residents who develop symptoms.”
Criteria for Entering Phase 2

• Community meets Phase 2 standards, i.e., no rebound in cases after 14 days in Phase 1.
• No new COVID cases in nursing facility for 14 days.
• No staff shortages.
• Adequate PPE and disinfectants.
• Adequate access to testing.
• Adequate hospital capacity.
Phase 2: Facility Standards

• Same as Phase 1 in most respects.
• Except for:
  • Limited entry of non-essential healthcare personnel.
  • Greater ability to conduct group activities, including outings, with groups of 10 or fewer persons.
Criteria for Entering Phase 3

• Community meets Phase 3 standards, i.e., no rebound in cases during Phase 2.
• No new COVID cases in nursing facility for 28 days.
• No staff shortages.
• Adequate PPE and disinfectants.
• Adequate access to testing.
• Adequate hospital capacity.
Phase 3: Facility Standards

• Visitation allowed, with screening, masks, and social distancing.
• Entry of non-essential healthcare personnel.
• Entry of volunteers.
• Communal dining and activities (including outings) allowed, but with social distancing.
• Continued testing and screening.
What Is a “New” Case?

- COVID-positive residents do not “count” for purposes of determining whether a facility may enter Phase 2 or 3, if the resident picked up the infection elsewhere.
  - Concern is for when infections appear to be spreading within facility.
Survey Activities

• Phase 1: Immediate jeopardy, infection control, initial certifications, and state priorities.
• Phase 2: Same as Phase 1, with addition of complaints alleging actual harm.
• Phase 3: Normal survey operations.
STATE ADVOCACY RECOMMENDATIONS

Robyn Grant
Director of Public Policy and Advocacy

www.theconsumervoice.org
State Advocacy Recommendations

• Involve the Long-Term Care Ombudsman Program (LTCOP) and Citizen Advocacy Groups in state decisions about how and when nursing homes will be reopened.

• Develop criteria that you believe should trigger surveys by your State Survey Agency (SSA) since SSAs can perform surveys during any phase based on state priorities.

• Expand compassionate care situations more broadly so family members who provide essential physical and/or psychosocial assistance and support to a resident can visit. Form a state stakeholder workgroup that includes the LTCOP, Citizen Advocacy Groups, families, and residents to define the circumstances under which this would be permitted.
State Advocacy Recommendations

• Continue to support adequate PPE and testing.

• Require daily facility reporting and state monitoring of at least the following information:
  • Number of COVID-19 cases,
  • Number of fatalities (COVID and non-COVID related),
  • Staffing levels
  • Available supply of PPE and testing kits.
NEW GAO REPORT ON INFECTION CONTROL
GAO REPORT

- *Infection Control Deficiencies Were Widespread and Persistent in Nursing Homes Prior to COVID-19 Pandemic* (May 20, 2020),

- That about sums it up!
DATA REVIEWED

GAO FINDINGS

- 82% of nursing facilities were cited with 1 or more infection control deficiencies 2013-2017, including
  - 48% of facilities, multiple consecutive years
  - 19% of facilities, multiple nonconsecutive years
  - 35% of facilities, 3 or 4 consecutive years
  - 6% of facilities, all 5 years
PERCENTAGE OF FACILITIES CITED WITH DEFICIENCY EACH YEAR

- 2013-2017: 39% to 41% of facilities
- 2018-2019: 40% of facilities
DEFICIENCY CLASSIFICATIONS
2013-2017

- 99% cited as no harm, so
  - 67% did not have penalty imposed or implemented
  - 31% had penalty imposed, but not implemented (they “corrected” the noncompliance).

- CMS implemented enforcement action (financial penalty) for 1% of the infection control deficiencies.
OTHER GAO FINDINGS

- **For-profit** facilities (68% of facilities) more likely to be cited with infection control deficiencies
  - They accounted for 72% of deficiencies cited
  - They accounted for 61% of facilities without infection control deficiency
OTHER GAO FINDINGS

- Facilities with overall ratings of 5 stars, (17% of all facilities) were less likely to be cited with infection control deficiency
  - They accounted for 33% of facilities not cited for infection control.
  - They accounted for only 10% of facilities with infection control deficiencies in multiple years.
STATE-SPECIFIC DATA

- number of surveys
- number of facilities with infection control deficiency
- number of facilities with infection control deficiency in one year, multiple consecutive years, and multiple non-consecutive years
FUTURE WORK

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For further information, or to receive the Center’s free weekly electronic newsletter, *CMA Alert*, update emails and webinar announcements, contact:

Communications@MedicareAdvocacy.org

Or visit

www.MedicareAdvocacy.org
Federal Reporting Requirements

Richard Mollot, Executive Director
Long Term Care Community Coalition
www.nursinghome411.org
Reporting to Residents & Families

Nursing homes must inform residents, their representatives, and families of those residing in facilities by 5 p.m. the next calendar day following the occurrence of either

1. A single confirmed infection of COVID-19, or
2. three or more residents or staff with new-onset of respiratory symptoms occurring within 72 hours of each other.

There are a variety of ways that facilities can meet this requirement, such as informing families and representatives through email listservs, website postings, paper notification, and/or recorded telephone messages. We do not expect facilities to make individual telephone calls to each resident’s family or responsible party to inform them that a resident in the facility has laboratory-confirmed COVID-19.
Reporting to Residents & Families

This information must—

1. **Not include** personally identifiable information;

2. **Include** information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations of the facility will be altered; and

3. **Include** any cumulative updates for residents, their representatives, and families...
   - At least weekly or
   - by 5 p.m. the next calendar day following the subsequent occurrence of either:
     a. each time a confirmed infection of COVID-19 is identified, or
     b. whenever three or more residents or staff with new onset of respiratory symptoms occur within 72 hours of each other.
Reporting to CDC

§ 483.80 Infection control. (g) COVID-19 Reporting. The facility must—

(1) Electronically report information about COVID-19 in a standardized format specified by the Secretary. This report must include but is not limited to-

   (i) Suspected and confirmed COVID-19 infections among residents and staff, including residents previously treated for COVID-19;

   (ii) Total deaths and COVID-19 deaths among residents and staff;

   (iii) Personal protective equipment and hand hygiene supplies in the facility;

   (iv) Ventilator capacity and supplies in the facility;

   (v) Resident beds and census;

   (vi) Access to COVID-19 testing while the resident is in the facility;

   (vii) Staffing shortages; and

   (viii) Other information specified by the Secretary.
Reporting to the Public

- Information must be provided weekly to the Centers for Disease Control & Prevention (CDC).
- “This information will be posted publicly by CMS to support protecting the health and safety of residents, personnel, and the general public.”
- This information will be posted by CMS on their website, https://data.cms.gov/.
- We will all be monitoring this and will report back in future programs as well as via newsletters.
Coronavirus Resource Center

NURSINGHOME411.ORG/CORONAVIRUS/

Opinion
Nursing Homes Were a Disaster Waiting to Happen
Long before Covid-19, poor care and lax standards were widespread and well known.

By Richard Mollot
Ms. Mollot is the executive director of the Long Term Care Community Coalition.

April 28, 2020
Coronavirus Resource Center

DATA

- COVID-19 Fatalities
  - New York
  - National
- Staffing
- Provider Info
- Infection Control & Citations

** NY COVID-19 FATALITY DATA (05/11/20) **

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<tr>
<td>Confirmed + Presumed at NH</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>5,516</strong></td>
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Source: NY DOH
Visit our home page www.nursinghome411.org for
- Coronavirus resources & updates;
- Fact sheets on nursing home resident rights;
- Data on staffing, infection control violations, and ratings for all U.S. nursing homes;
- Forms & tools for resident-centered advocacy;
- Dementia Care Advocacy Toolkit;
- And more!

Sign up for alerts @ https://nursinghome411.org/join/.

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