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

June 26, 2020
Agenda

I. Introduction and housekeeping
II. CMS Guidance on Reporting of Staffing Data
III. Preparing Comments on Interim Rule on Reporting Requirements
IV. Reuniting Residents and Families
   I. Ohio experience
   II. West Virginia experience
   III. New CMS FAQs
   IV. Social media campaign – Tuesday, June 30
V. Q&A/Discussion
Presenters

- Richard Mollot, Long-Term Care Community Coalition
- Robyn Grant, Consumer Voice
- Beverley Laubert, State Ombudsman, Ohio
- Suzanne Messenger, State Ombudsman, West Virginia
- Lori Smetanka, Consumer Voice
- Mike Dark, CANHR
Changes to Star Ratings & Reporting of Staffing Levels, Quality Measures on NH Compare

Richard Mollot
Long Term Care Community Coalition
www.nursinghome411.org
Brief Background

- Nursing Home Compare and the Five Star Quality Rating System provide a variety of information for the public on every nursing home that is licensed under Medicare and Medicaid.

- Though it is not perfect, it is by far the most reliable source for information about a nursing home’s quality.

- The star ratings are based on three indicators:
  1. Survey results;
  2. Staffing levels;
  3. Quality measures.
COVID-19 Pandemic Changes

- CMS waived a number of important rules in response to the pandemic, including:
  1. Regular inspections and complaint investigations;
  2. Minimum staff training/certification requirements;
  3. 30-day notice for facility-initiated transfer; and
  4. Requirements to report daily staffing levels and MDS (Minimum Data Set) “quality measures.”

- Yesterday (June 25), CMS announced resumption of the reporting requirements (#4 above).
  2. Facilities may – but are not required – to submit for 2020 Q1.
  3. NHCompare staffing measures and ratings will be updated in October 2020.
  4. Beginning July 29, 2020, quality measures based on data collection period ending December 31, 2019 will be held constant.
  5. CMS is not holding quality measure ratings constant, as a facility’s quality measure rating can still be updated by a quality measure with underlying data that is earlier than December 31, 2019.

Consumer Perspectives & Concerns

- We are glad to hear that the requirement will be reinstated.

- However, we are extremely concerned about nursing homes being given a permanent holiday on reporting their payroll-based staffing data and other measures during the first several months of the pandemic.

- Without this vital information, we will never know what happened in our nursing homes during crucial, horrific months of the pandemic.

- In addition, as a result, we will be significantly hobbled in being able to address a second wave or other emergency situation in the future.

In addition to concerns about the availability of important information, we are all very concerned by the blockade on family and ombudsman visitation, the continued absence of regular surveys and complaint investigations, relaxed staff certification requirements, and freedom to discharge residents without notice or due process.
Resources @ www.nursinghome411.org
COMMENTS ON §483.80 (G)

COVID-19 Reporting

§ 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.

(2) Provide the information specified in paragraph (g)(1) of this section at a frequency specified by the Secretary, but no less than weekly to the Centers for Disease Control and Prevention’s National Healthcare Safety Network. This information will be posted publicly by CMS to support protecting the health and safety of residents, personnel, and the general public.

(3) Inform residents, their representatives, and families of those residing in facilities by 5 p.m. the next calendar day following the occurrence of either a single confirmed infection of COVID-19, or three or more residents or staff with new-onset of respiratory symptoms occurring within 72 hours of each other. This information must—

(i) Not include personally identifiable information;

(ii) 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

(iii) 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: each time a confirmed infection of COVID-19 is identified, or whenever three or more residents or staff with new onset of respiratory symptoms occur within 72 hours of each other.
Key Recommendations

• Collect additional information
• Define and/or clarify certain information
• Simplify some information
Key Recommendations

• The same comprehensive information must be provided to everyone:
  • CDC, CMS, state survey agency, State Long Term Care Ombudsman Program, Protection and Advocacy Agency
    AND
  • Residents, their representatives, their families, and staff!

• Information must be reported daily
• Facilities must report on a standardized form
• Information must be easy to obtain
• Reporting must be retroactive to January 1, 2020
• Reporting requirements should be expanded to other institutions and congregate settings
Advocacy Action YOU Can Take

• Submit your own comments
• Look for information from us to help you!
Reuniting Residents and Families
#ConnectionMatters
WEST VIRGINIA EXPERIENCE
Suzanne Messenger, State LTC Ombudsman
WEST VIRGINIA

- Total Population – 1.792 million
- Largest City (Charleston) – 47,215
- 123 Nursing Homes
  - 10,485 licensed beds (8,651 currently occupied)
- Total COVID-19 Cases - 2,712
  - 233 NH Residents
  - 167 NH Staff
- Total COVID-19 Deaths - 92
  - 43 NH Residents
  - 0 Staff
Background

• March 12 Governor Justice prohibited visitation at WV nursing homes.

• March 13 CMS issued guidance on the restriction of nonessential medical staff and all visitors except in certain limited situations.

• April 17 Governor Justice orders testing of all nursing home residents/staff.

• May 6 Governor Justice orders testing of all assisted living residents/staff.

• On May 18, 2020 CMS issued a recommendations memo to states QSO-20-30-NH outlining factors to be considered in making the decision to open nursing homes again.

• June 11 Governor Justice announced that beginning on June 17, 2020, visitation at nursing homes may resume at facilities that have had no cases of COVID-19 for the fourteen consecutive day period immediately preceding June 17, 2020 (i.e., since June 3, 2020), using a general framework provided in Nursing Home COVID-19 Reopening Plan and Nursing Home & Assisted Living Reopening Plan FAQs
Phase Red
Active COVID-19 positive residents or positive residents within the last 14 days.

<table>
<thead>
<tr>
<th>Category</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Screening</td>
<td>• Screen 100% of all persons entering the facility</td>
</tr>
<tr>
<td></td>
<td>• Screen 100% of residents at least daily</td>
</tr>
<tr>
<td>Visitation</td>
<td>• Compassionate care only</td>
</tr>
<tr>
<td>Non-essential personnel</td>
<td>• No non-essential personnel</td>
</tr>
<tr>
<td>Trips outside the facility</td>
<td>• Only medically necessary trips outside of facility</td>
</tr>
<tr>
<td>Communal dining</td>
<td>• No communal dining</td>
</tr>
<tr>
<td>Group activities</td>
<td>• No group activities</td>
</tr>
</tbody>
</table>
### Phase Yellow
Facilities with no COVID-19 positives, and/or no substantial community spread for the immediately preceding 14 days, beginning no sooner than June 17, 2020.

| Screening | • Screen 100% of all persons entering the facility  
|           | • Screen 100% of residents at least daily |
| Limited Visitation | • No more than two visitors allowed at the same time, by appointment only  
|           | • Visits must take place in a facility-designated location  
|           | • Time limitations may be imposed at facility’s reasonable discretion  
|           | • No visitors under 12 years old  
|           | • Visitors must wear face covering at a minimum, maintain 6 ft. social distancing, and use proper hand hygiene |
| Non-essential personnel | • Non-essential healthcare and other personnel and contractors may be allowed as determined necessary by the facility  
|           | • Must maintain 6 ft. social distancing, use proper hand hygiene, and wear face covering |
| Trips outside the facility | • Only medically necessary trips outside the facility |
### Phase Yellow

Facilities with no COVID-19 positives, and/or no substantial community spread for the immediately preceding 14 days, beginning no sooner than June 17, 2020.

| **Communal dining** | • Communal dining allowed if 6 ft. social distancing can be maintained  
|                     | • Proper hand hygiene must be used by residents  
|                     | • Residents must wear face covering, as tolerated, to and from the dining area |
| **Group activities and therapy** | • Group activities and therapy allowed if 6 ft. social distancing can be maintained  
|                        | • No more than 10:1 ratio, resident to staff  
|                        | • Group activities and therapy must take place in a facility-designated location  
|                        | • Proper hand hygiene must be used by residents  
|                        | • Residents must wear face covering, as tolerated, to and from the activity or therapy |
| **Salon services**   | • Beauticians and manicurists can provide services to residents if the safety guidelines required for hair salons, nail salons, and barber shops, as applicable, can be maintained. |
**Phase Green**
Facilities that have progressed 14 consecutive days under Phase Yellow with no COVID-19 positives and no substantial community spread.

| Screening         | • Screen 100% of all persons entering the facility  
|                  | • Screen 100% of residents at least daily |
| Visitation        | • **Number and age of visitors allowed to be determined by facility**  
|                  | • Visitation by appointment only  
|                  | • Visits must take place in a facility-designated location  
|                  | • Time limitations may be imposed at facility’s discretion  
|                  | • Visitors must wear face covering at minimum and use appropriate hand hygiene |
| Non-essential personnel | • **Non-essential personnel and contractors allowed in the facility**  
|                      | • Must maintain 6 ft. social distancing, use proper hand hygiene and wear face covering |
| Trips outside the facility | • Only medically necessary trips outside the facility |
## Phase Green
Facilities that have progressed 14 consecutive days under Phase Yellow with no COVID-19 positives and no substantial community spread.

| **Communal dining** | • Communal dining allowed if 6 ft. social distancing can be maintained  
|                     | • Proper hand hygiene must be used by residents  
|                     | • Residents must wear face covering, as tolerated, to and from the dining area |
| **Group activities** | • Group activities allowed if 6 ft. social distancing can be maintained  
|                     | • Proper hand hygiene must be used by residents  
|                     | • Residents must wear face covering, as tolerated, to and from the activity or therapy |
| **Salon services**  | • Beauticians and manicurists can provide services to residents if the safety guidelines required by hair salons, nail salons, and barber shops, as applicable, can be maintained |
### Phase Blue

At any time during Phase Yellow or Phase Green, if two or more residents test positive, or if it is determined that there is substantial community spread as defined by the Bureau for Public Health.

| Screening | • Screen 100% of all persons entering the facility  
|           | • Screen 100% of residents at least daily |
| Visitation | • Compassionate care only |
| Non-essential personnel | • Non-essential healthcare personnel, including medical providers, allowed in the facility  
|                       | • Facilities may allow other non-essential personnel if they will not be entering any direct care areas |
| Trips outside the facility | • Only medically necessary trips outside of facility |
Phase Blue

At any time during Phase Yellow or Phase Green, if two or more residents test positive, or if it is determined that there is substantial community spread as defined by the Bureau for Public Health.

| Limited communal dining | • Limited communal dining based on medical necessity  
|                         | • 6 ft. social distancing must be maintained  
|                         | • Proper hand hygiene must be used by residents  
|                         | • Residents must wear face covering, as tolerated, to and from the dining area. |
| Limited group activities and therapy | • Limited group activities and therapy allowed if 6 ft. social distancing can be maintained  
|                         | • Group activities and therapy must take place in a facility-designated location  
|                         | • Proper hand hygiene must be used by residents  
|                         | • Residents must wear face covering, as tolerated, to and from the activity or therapy |
| Limited salon services | • Beauticians and manicurists can provide services to residents on a limited basis if the safety guidelines required for hair salons, nail salons, and barber shops, as applicable, can be maintained. |
CHALLENGES

• Strict Interpretation of “compassionate care”
• Process vs. impact of “reopening”
  • What is a “visit”? 
• Life vs. safety
Suzanne Messenger
State Long-term Care Ombudsman
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CMS Reopening-Visitation Guidance

- **QSO-20-30-NH** (May 18, 2020) + FAQs

  - 3 Phases of “Reopening”
    - Phase 1 – visitation restricted except for compassionate care
    - Phase 2 – visitation restricted except for compassionate care
    - Phase 3 – visitation allowed with screening and precautions

- Factors to Inform Reopening Decision-Making:
  - Case status in community
  - Case status in the nursing home
  - Adequate staffing – no shortages, no contingency staffing plan
  - Access to adequate testing – baseline and ongoing testing plan
  - Universal source control – face coverings or masks, social distancing, handwashing/sanitizing
  - Access to adequate Personal Protective Equipment (PPE)
  - Local hospital capacity
New FAQs – June 23, 2020

- Encourages “creative means” of connecting residents and families – such as outside visits
  - With screening and precautions
  - Items in visitation spaces routinely cleaned and disinfected
  - Limit the number and size of visits, number of individuals visiting any one resident
# FAQs - Communal Activities

<table>
<thead>
<tr>
<th>Eat in the same room w social distancing</th>
<th>Residents without COVID</th>
<th>Residents w COVID or symptoms</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Limited people at tables</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>• 6 feet between tables</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Group activities</th>
<th>Residents without COVID</th>
<th>Residents w COVID or symptoms</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Social distancing among residents</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>• Hand hygiene</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Face coverings or facemasks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ex. Bingo, Book Club, Movies, Crafts</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
FAQs - Compassionate Care

- Does not exclusively refer to end of life situations
- CMS believes these visits should not be routine; should be limited
- CMS encourages consultation with state leadership, families, ombudsman to help determine if a visit should be conducted for compassionate care
- All screening and precautions should be taken
- Nursing homes can create “safe spaces” within the facility
- Consider setting appointment times
- Limit the number of visitors allowed in the building at one time, and number visiting with any one resident
FAQs - Access to LTC Ombudsman

- Residents have the right to access to the ombudsman
- If in-person not available, facilities must facilitate resident communication with the ombudsman

FAQs - Discharge Waivers

- Only apply to cohorting residents to prevent COVID-19 spread
- “For all non-cohorting discharges, facilities must comply with all discharge requirements” – including notification and reasons in a manner and language they understand, and notice to the ombudsman
SOCIAL MEDIA CAMPAIGN

Mike Dark, CANHR
Resources

https://theconsumervoice.org/issues/other-issues-and-resources/covid-19

Learn About Recent Guidance

**COVID-19:**
How to Protect Yourself and Your Loved Ones

As the novel coronavirus 2019 (COVID-19) outbreak continues to evolve, it is important for long-term care consumers, family members, Ombudsman programs and other advocates to be informed and take precautions in order to prevent the spread.

Learn More
Share Your Story

Tell us about your, or your loved one's, experiences with your long-term care facility during COVID-19.

www.theconsumervoice.org