



## CMS INTERIM RULE ON FACILITY REPORTING

On May 8, 2020, CMS published [an interim final rule with comment](#) that sets forth new requirements for nursing homes to report information about resident and staff infections, potential infections, and deaths and other information related to COVID-19.

Below is a summary of the interim regulation with brief, initial comments from Consumer Voice. We will be writing comments on the interim rule and assisting advocates in preparing and submitting their own.

### Reporting to federal government

#### What the rule requires:

Facilities are required to electronically report the following information at least weekly to the Centers for Disease Control and Prevention and the National Healthcare Safety Network:

- Suspected and confirmed COVID-19 infections among residents and staff
- Residents previously treated for COVID-19
- Total deaths and COVID-19 deaths among residents and staff
- Personal protective equipment and hand hygiene supplies in the facility
- Ventilator capacity and supplies available in the facility
- Resident beds and census
- Access to COVID-19 testing while the resident is in the facility
- Staffing shortages
- Other information specified by the CMS Secretary

#### Initial comments:

- CV is pleased to see that nursing homes will be required to report this information. Many of the data elements correspond to what CV other orgs had advocated be reported.
- CMS needs to clarify that deaths to be reported include deaths in another location, such as a hospital.
- While reporting this information to CDC is important, it should also be reported to the state survey agency, CMS, the State Long Term Care Ombudsman Program, the Protection and Advocacy agency, residents, their representatives and families, and staff
- Required information about testing should be clearer and more detailed. The facility should be required to report: how many residents have been tested; how many staff members have been tested; the percentage of total residents tested; the percentage of total staff tested; and the frequency of testing.
- In addition to staffing shortages, facilities should also be required to report daily staffing levels. "Shortages" is a meaningless term since there are no federal staffing standards that establish a minimum level of staff.

## **Frequency of reporting**

### What the rule requires

How frequently facilities will have to report this information to CMS will be set by the Secretary of the Department of Health and Human Services, the frequency must be at least weekly.

### Initial comments

- Weekly is not sufficient given the rate of transmission. Facilities should report this information daily.

## **Posting of information**

### What the rule requires

CMS will publicly post information.

### Initial comments

- CV strongly supports public disclosure of this information.
- CMS should be required to post the information on Nursing Home Compare on a daily basis.
- State survey agencies should be required to post this information too.

## **Reporting to residents, representatives and families**

### What the rule requires:

- Facilities must inform residents, their representatives, and families by 5p the day after an occurrence of:
  - a confirmed COVID-19 case among residents and staff in their facility; or
  - three or more residents or staff with new respiratory symptoms that occur within 72 hours of each other.
- This information must
  - not contain any data that would indicate a resident's identity
  - include the steps the nursing home is taking to prevent or reduce the risk of spreading the virus
- Facilities must provide cumulative updates to residents, their representatives, and families:
  - By 5p the day following a new case or group of three individuals with the symptoms noted above, OR
  - At least weekly

### Initial comments

- CV is very pleased that resident, families and representatives will be provided with this information.
- Staff should also be provided with the same information.
- Facilities should also be required to provide residents, families and representatives with the information that must be reported to the CDC (e.g. number of deaths, PPE, etc.).

- The symptoms should not be limited to respiratory symptoms since the list of symptoms identified by CDC has changed. The symptoms should be those specified by CDC, which would keep the list up-to-date.
- CMS needs to address how this information must be provided. Information should be provided orally and in writing to residents. Methods for informing families and representatives should include email listservs, website postings, and/or recorded telephone messages. CMS should permit notification of families and representatives by mail only in addition to, but not instead of, these other methods since the lag time in delivery would make the information out-of-date by the time it was received.
- At a minimum, information about number of cases, number of total deaths and COVID related deaths, and staffing levels should be posted inside the facility and at entrance(s)
- CV strongly supports informing residents, families and representatives about the steps the facility is taking to contain the spread of the virus. Staff should be informed as well.
- CV is pleased that facilities must provide cumulative updates. Updates should be provided at least weekly.

*For more information on this issue, go to:*

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

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