

Instructions for Writing and Submitting Comments about the Interim Final Rule on Nursing Home COVID-19 Reporting

Comments are due by July 7, 2020 5pm ET.

Writing Comments

Here is a link to the Interim Final Rule: <https://www.govinfo.gov/content/pkg/FR-2020-05-08/pdf/2020-09608.pdf> The part that applies to nursing homes starts on 27627.

Starting your letter

- **If you are an organization:** Start your letter with a brief introduction of your organization and why your organization is interested in the federal nursing home reporting requirements for COVID-19.
- **If you are an individual:** Start your letter with a brief introduction of who you are (resident/family member, individual advocate) with an explanation of why you are interested in the federal nursing home reporting requirements for COVID-19.

What to say: To help you write your comments, we have provided:

- **A list of points you might include (below).** You do not have to cover every issue in the rule or on our list. You can choose to address just the ones you believe are most important. If you are a resident or family member, you can write about the issues that affect you/your loved one the most.
- **A link to the comment letter written by Consumer Voice:** https://theconsumervoicework.org/uploads/files/issues/CV_comments_Interim_final_rule_with_comment_COVID_reporting.pdf The letter goes into detail about the points we are making. Feel free to pull anything you like from that letter.

Points You Can Include in Your Comments

Collect additional information

- Demographic information including race, ethnicity, sex, age, disability status, primary language, sexual orientation, gender identity, socio-economic status, urban/rural locations needs to be obtained in order to look at and hopefully address disparities in COVID infections and deaths.
- The number of residents and staff who recovered from COVID and who were hospitalized for COVID should be tracked.
- Actual daily nurse staffing levels, not just the facility's opinion of whether they are short staffed or not.

Define certain information

- Define:
 - A "suspected" case using National Health Safety Network definition.
 - The types of specific PPE facilities must report on based on National Health Safety Network definition.

- Access to COVID-19 testing to include how many residents and staff have been tested; percentage of total residents and total staff tested; frequency of resident and staff testing; number of tests available; and if the facility pays.
- **Simplify some information**
 - Notify residents, their representatives, family, and staff about suspected cases instead of notifying them when there are three or more residents or staff with new onset of respiratory symptoms occurring within 72 hours of each other. Current requirement is too complicated; information about suspected cases is in line with reporting to CDC; using only respiratory symptoms is no longer accurate according to CDC list of symptoms.

Major recommendations

- **The same comprehensive information (as modified and revised above) must be given to a range of agencies and individuals.**
 - In addition to CDC: CMS, the state survey agency, the State Long-Term Care Ombudsman Program, and the Protection and Advocacy Agency. These entities require data to assist in their response as well.
 - Residents, their representatives, and their families. They all deserve to know everything – it's their or their loved ones' home – and their or their loved ones' lives at stake.
 - Staff. They need full information in order to provide effective care.
 - General public. Prospective residents and their families need information to determine options for care; community needs to know about COVID status.
- **Information must be reported daily.** Weekly is NOT enough. Everything is changing rapidly. information is needed for decision making and responding to the virus.
- **Facilities must report on a standardized form.** This will ensure the information is uniform and consistent.

Information must be easy for residents, their representatives and their families, staff, and the public to obtain. For residents, that could be orally and in writing. For the others it could be by email, website postings, paper notifications, recorded telephone messages and/or phone.

Reporting must be retroactive to January 1. We need data back to January 1, 2020 because we need to know what has been happening in facilities since the beginning of the COVID-19 crisis.

Reporting requirements should be expanded to other institutions and congregate settings.

This should include, but not be limited to 1) all institutional settings, such as Intermediate Care Facilities for Individuals with Intellectual Disabilities, Institutions for Mental Disease, substance use disorder treatment facilities, and psychiatric residential treatment facilities; and 2) other Medicaid-funded congregate settings where older adults and people with disabilities live, including group homes and assisted living facilities. The need for transparency, information and data collection is equally as critical to protecting the safety and welfare of people in these settings as they are for residents of nursing facilities.

Submitting comments

It's easy! You can submit electronically or by express or overnight mail. (Note: Submitting by "snail" mail is permitted as well, but there isn't enough time to get comments in this way given the federal July 4th holiday.)

1. Electronically

- Go to www.regulations.gov.
- Type CMS-5531-IFC into the blue "SEARCH" box at the top of the screen, then click on "SEARCH."
- Click on the "Comment Now!" box on the right side of your screen.
- Complete Step #1 - Enter your information.
 - Fill in the box that says Comment (Required).
 - Enter your own comments.
 - If your comments are more than 5000 characters, you will need to put them in a document and attach it by clicking on "Choose Files."
- Fill in your name and click on "I want to provide my contact information." Note: Only your comments, your state and your country will be visible on Regulations.gov.
- Click on "Continue."
- Check the box to indicate that you've read and understand the statement.
- Hit "Submit Comment."

2. By Express or Overnight mail

- Send your comments to: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-5531-IFC, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850