

Statement on CMS Guidance to Reopen Nursing Homes

On May 18, 2020, the Centers for Medicare and Medicaid Services (CMS) issued new guidance, Nursing Home Reopening Recommendations, which sets forth criteria for implementation, visitation and service considerations, and surveys that will be performed during three phases of reopening from the COVID-19 crisis. The National Consumer Voice for Quality Long-Term Care is deeply concerned that this guidance fails to provide the type of carefully phased in approach to visitation that is needed and is based on criteria that, without greater federal action and guidance, make it unlikely that some nursing homes will reopen in the foreseeable future.

Nursing home residents are suffering not only from the virus, but from isolation. They are depressed, anxious, sad, worried, and distressed. Many have been isolated in their rooms, unable to interact with anyone other than the few staff who come in to provide care, and with little to no meaningful activities. They have not seen their family for months. We increasingly are told about those who have given up their will to live and want to die. Maintaining a strict ban on all visitors until a facility reaches Phase 3 will cause further emotional harm from which many will never recover. Instead, CMS should develop a plan that cautiously permits families to visit in stages, starting with expanding the guidance for compassionate care situations. Currently, the guidance is insufficient and has resulted in widely inconsistent application for families and seemingly arbitrary denials that are not made in the best interests of the residents. Over time, and with adequate protections, more family members could gradually be allowed access, depending on factors CMS has identified, such as case numbers in the facility and community.

The CMS recommendations for reopening also require nursing homes to have access to adequate PPE and testing supplies. Availability of these materials impacts the availability of staff, some of whom are afraid to go to work without the necessary protection. Daily we see and hear reports that PPE is not available, and staff fear for their own, as well as the residents' safety. Sufficient amounts of PPE and testing supplies will also drive many aspects of the reopening process – including if and when entrance to the facility will be permitted for visitors and other service providers, surveyors who assess facility compliance with standards, and ombudsmen who advocate for residents. The need for these resources is clear but requiring them while abdicating responsibility for helping states and communities obtain them is unacceptable. The federal government must step up and do more to help get these critical supplies to the states and to nursing homes.

The National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a 501(c)(3) nonprofit membership organization founded in 1975 by Elma L. Holder that advocates for quality care and quality of life for consumers in all long-term-care settings.

In addition, CMS has indicated that the nursing home must not be experiencing staff shortages in order to relax restrictions. How this will be determined is confusing and unclear since there is no federal staffing standard nor a definition of short staffing. Moreover, this is holding nursing homes to a standard that few ever meet, even under the best of circumstances, let alone during a pandemic. Tying reopening to a standard that no one can measure or assess means that some nursing home doors will remain closed for many more months, if not longer.

Residents of nursing homes have been the hardest hit by the coronavirus, with nearly 35,000 having died. Yet the impact of isolation on their emotional and psychosocial well-being of residents is equally traumatic, and some cases, fatal. A carefully developed visiting protocol that permits more visitors over time in a measured way and that emphasizes testing, PPE, and social distancing is the solution to the isolation and emotional trauma that far too many nursing home residents are experiencing.

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