



JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

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

June 12, 2020

Agenda

- I. Introduction and housekeeping
- II. Discussion around reuniting residents and families
- III. Stimulus Checks
- IV. House Oversight Briefing 6.11.20
- V. Concerns Raised by Residents
- VI. Q&A/Discussion

Presenters

- Lori Smetanka, Consumer Voice
- Toby Edelman, Center for Medicare Advocacy

REUNITING RESIDENTS AND FAMILIES

Federal Guidance

- March 13, 2020 - CMS issues ban on visitation, group activities, communal dining (<https://www.cms.gov/files/document/qso-20-14-nh-revised.pdf>)
 - Facilities should restrict visitation of all visitors and non-essential health care personnel, except for certain compassionate care situations, such as an end-of-life situation
 - Decisions about visitation during an end of life situation should be made on a case by case basis

CMS “Reopening” Guidance

3 Phases

Take into account:

- Community case status
- Nursing home case status
- Staffing – no shortages or contingency plans
- Access to adequate testing
- Access to adequate PPE
- Universal Source Control
- Local hospital capacity

Prior to relaxing restrictions, CMS recommends:

- Baseline tests for all residents and staff
- State survey of facilities with significant COVID-19 outbreaks
- Lag behind a community’s reopening by at least 14 days

States are Developing Guidance

- State Guidance: CT, IA, IN, MA, ND, OH
- Outdoor visits allowed – CT, IA (phase 2), IN, MA, OH (assisted living only)
- Multiple states working on guidance, created workgroups/task forces
 - Working groups should include residents, families, ombudsmen, citizen advocates

Recommendations for State Guidance:

- Balance efforts to stop the spread of COVID-19 with the need for connection and support from loved ones
- Take into account the rights, preferences and individualized needs of the residents, i.e., need for compassionate care
- Require facilities to establish policies and procedures for implementation
- Require oversight of each facility's plan and implementation – to ensure proactive steps towards allowing support persons and visitors in a manner that is in the residents' best interests

Compassionate Care

“Facilities should restrict visitation of all visitors and non-essential health care personnel, except for certain compassionate care situations, such as an end-of-life situation.” (CMS, QSO-20-14-NH, March 13, 2020)

CMS FAQs:

#4 answer (in part):

The memorandum intends to provide general guidance on how to limit visitation as much as possible, while also acknowledging that there are times when visits should be allowed. We encourage frequent communication among patients, residents, families, facilities, and other health care providers when appropriate (e.g., hospice providers), so they can work together to identify when a visit for compassionate care is needed and can be safely conducted. **One example of such a situation is one in which a resident is receiving hospice care and their health status is sharply declining, or when a resident is not enrolled in hospice, but their health status has sharply declined.**

Compassionate Care

- End of Life
 - Do not wait until active dying to allow visitors
- Other Compassionate Care Situations – i.e., significant decline or distress
 - Those living with dementia or significant behavioral health issues who are struggling with the effects of COVID-19
 - Residents who are declining and relied previously on families and others to help them
- Based on the individual needs of the resident

FACILITY POLICY CONSIDERATIONS

Process for Allowing Visitors:

- Prioritize compassionate care situations, allow “essential family caregiver” “individual support person,” with precautions and screening for all residents
 - Essential Family Caregiver (Indiana) – those family members and other outside caregivers who, prior to visitor restrictions, were regularly engaged with the resident at least two or more times per week to provide companionship and/or assist with activities requiring one-on-one direction. The goal of EFCs is to help high-risk residents who are missing care previously provided by a loved one or outside caregiver.”
- Other visitors – may be limited depending on prevalence in the community and the facility – but criteria should be established – should not be arbitrary
- Ask the resident who they choose as their designated support person
- Accommodations for all residents

Screening, PPE and Testing

- Screening of all visitors – i.e., temperature, symptoms, sign in
- PPE Required
 - Masks (face coverings) must be worn during each visit
 - Visitors must wash their hands or use hand sanitizer upon arrival
- Testing
 - Ideally all residents, staff, and visitors will have been tested – baseline and ongoing.
 - Recognizing limitations in availability of testing – at a minimum PPE, hand sanitizer should be made available, and require also hand washing, social distancing, limitations on where can go in the facility

Provide Reasonable Accommodations

- Available days/times
- Designated locations –
 - residents' room, outdoors (with adequate shade covering), window visits, other designated room in the facility
- Privacy during the visit
- Communicate (in advance) rules/requirements to residents and families –
 - i.e., temperature taking and symptom screening, use of face coverings, hand washing/sanitizing, maintaining social distance, schedules and signing up, remaining in designated locations, etc.
- Arrange for a staffperson to facilitate visits; assist residents as necessary

STIMULUS CHECKS

- CARES Act authorizes economic impact payments (“stimulus checks”)
- FTC Alert (May 15, 2020), <https://www.ftc.gov/news-events/press-releases/2020/05/ftc-alerts-consumers-about-nursing-homes-assisted-living>
 - States have received reports: nursing and assisted living facilities requiring residents on Medicaid to sign over checks to facilities.

CMS PRESS RELEASE

- “Nursing Home Residents’ Right to retain Federal Economic Incentive Payments” (Press Release, Jun. 11, 2020), <https://www.cms.gov/newsroom/press-releases/nursing-home-residents-right-retain-federal-economic-incentive-payments>

CMS PRESS RELEASE

- CMS has heard of allegations (but no specific complaints) that facilities “are seizing” residents’ checks.

CMS POSITION

- Such a practice violates
 - 42 CFR 483.12, misappropriation of residents' property
 - 42 CFR 483.10, right to manage one's own financial affairs (if required to deposit check with facility)

CMS RECOMMENDS

- File a complaint with state survey agency.
 - CMS and state investigators will make referrals to State Attorneys General, as appropriate (that is, if they find a violation).
- File a complaint with state Attorney General.

ODD SITUATION

- If no complaints, why the press release?
- If anyone has been a victim of this practice, please let me know.

HOUSE OVERSIGHT BRIEFING

JUNE 11, 2020

- “The Devastating Impact of the Coronavirus Crisis in America’s Nursing Homes,”
- <https://oversight.house.gov/legislation/briefings/select-subcommittee-briefing-on-the-devastating-impact-of-the-coronavirus>

RESIDENT CONCERNS

Residents' Rights

Despite the pandemic, residents still have the right to:

- Receive care and services to obtain highest level of well-being
- Participate in the development and implementation of a person-centered plan of care, including the right to make decisions about care now and in the future
- Be free from abuse, neglect, exploitation, and misappropriation of property
- Voice grievances without discrimination or retaliation and prompt efforts by the facility to solve their grievances
- Not be transferred or discharged, except for specific reasons, to appeal the discharge, and to have a safe and orderly transfer/discharge if they leave the facility

Resident Doors Remaining Closed

Connecticut Department of Public Health, Blast Fax 2020-61

“There is NO policy stating that resident room doors must remain closed. Closing doors can pose a safety risk and be detrimental to the emotional and mental well-being of residents.”

“There is no risk to keeping doors open with suspected or confirmed COVID-19, unless an aerosol-generating procedure is being conducted. “

Aerosol-generating procedures include intubation, chest compressions, nebulization, high flow oxygen, non-invasive positive pressure ventilation (e.g. CPAP, BIPAP), and sputum induction.

Unable to Leave Room – Get a Shower

CDC –

- Encourage residents to remain in their room. If there are cases in the facility, restrict residents (to the extent possible) to their rooms except for medically necessary purposes.
- If they leave their room, residents should wear a facemask, perform hand hygiene, limit movement in the facility, and perform social distancing
- Implement protocols for cohorting ill residents with dedicated healthcare professionals

<https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/prevent-spread-in-long-term-care-facilities.html#facilities-should-do>

CDC Supporting Your Loved One in a LTC Facility

- Technology – video chats, emails, phone calls
- Cards and Letters
- Recorded Video Messages
- “Visits” through a glass window or parade of cars
 - Schedule in advance
- Visuals to Express Care
- Care Packages
- Dedications, such as songs or messages, to be played over the facility in-house cable channel and intercom system

CORONAVIRUS DISEASE 2019 (COVID-19): Supporting Your Loved One in a Long-Term Care Facility

We recognize the hardship that our residents and families are experiencing right now due to COVID-19, and we hear your concerns about the restrictions that have been put into place to reduce the risk of spread of COVID-19.

As part of our facility's commitment to protecting residents, families, and staff from serious illness and complications, we are continuing to follow guidance from the Centers for Medicare & Medicaid Services (CMS) and the Centers for Disease Control and Prevention (CDC), which includes restricting all visitation, except for certain compassionate care reasons, such as end-of-life.

Due to the high risk of spread once COVID-19 enters a facility, we must continue these protections. We will continue to provide families with regular updates regarding our facility's COVID-19 status via phone and email.

During this challenging time, we are committed to helping residents stay connected with their families and loved ones. We would like to work together with you to make this possible. Below are some ideas on how to keep in touch, and ways we are supporting communication between our residents and their families:



TECHNOLOGY for more frequent video chats, emails, text messages, and phone calls.

We are teaching residents to use video chat applications (such as Skype and FaceTime) and will help read emails or texts on personal devices if needed.



CARDS AND LETTERS with messages of support and updates on family members.

We are supplying paper, pens, envelopes and postage for residents to easily reply. If needed, we will write replies dictated by residents.



RECORDED VIDEO MESSAGES to share via email or text message, if live-video chatting is not feasible.

We will help record outgoing messages and share incoming messages with residents.



“VISITS” through a glass window or a parade of cars.

We will make every effort to ensure residents are able to safely participate if scheduled in advance.



VISUALS TO EXPRESS CARE. For example, ribbons around trees or benches, planting flowers outside, or outdoor posters and banners to show support.

We will work to designate areas to place these visuals and safely take residents outside to show them these symbols of your support.



CARE PACKAGES that could include items such as photographs, cards, drawings, snacks, and entertainment (such as books, magazines, and puzzles).

We will establish a system for care package drop-offs that is safe and does not require entry into the facility.



DEDICATIONS on the in-house cable channel and intercom system.

We can dedicate songs or share anecdotes via the intercom prior to broadcasting a movie or playing music. If your loved one has a favorite song, poem, movie or television show, please let us know.

We encourage you to share additional ideas and creative ways we can work together to support our residents.

Please contact us with questions or suggestions:



03/20/20 10/20/20

[cdc.gov/coronavirus](https://www.cdc.gov/coronavirus)

Resources

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

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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.

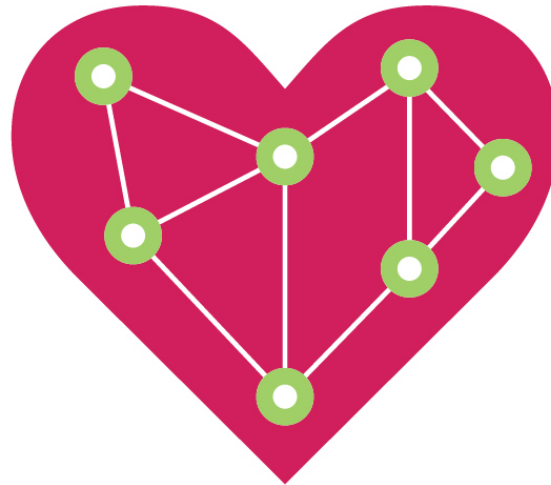
www.theconsumervoice.org

Consumer Voice Free Webinar

**Family Advocacy for Residents
During COVID-19**

Thursday, June 18, 2020 - 2:00pm ET

Residents' Rights Month 2020



Connection

Matters

NATIONAL CONSUMER
VOICE FOR QUALITY
LONG-TERM CARE

QA



Robyn Grant, rgrant@theconsumervice.org
Jocelyn Bogdan, jbogdan@theconsumervice.org
www.theconsumervice.org

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

Eric Carlson, ecarlson@justiceinaging.org
www.justiceinaging.org



Toby Edelman, tedelman@medicareadvocacy.org
www.medicareadvocacy.org

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

Richard Mollot, Richard@ltccc.org
www.nursinghome411.org