

April 10, 2020

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## COVID-19: CMS Guidelines to Protect Patients and Health Care Workers in Outpatient Settings

CMS has issued a series of updated guidance documents focused on infection control to prevent the spread of COVID-19 in a variety of inpatient and outpatient care settings. The guidance, is based on CDC guidelines and addresses patient triage, screening and treatment, the use of alternate testing and treatment sites and telehealth, drive-through screenings, limiting visitations, cleaning and disinfection guidelines, and staffing. We provide the FAQs for easier access.

### ***Which patients are at risk for severe disease for COVID-19?***

Based upon CDC data (<https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>), older adults and people of any age with underlying chronic medical conditions or immunocompromised state may be most at risk for severe outcomes due to COVID-19. This information should be considered in the decision to conduct visits or provide services, surgical procedures or treatment to patients in the outpatient setting.

### ***What actions should healthcare facilities implement to promote early recognition and management of patients, staff and visitors?***

When possible, as recommended by CDC, facility staff should proactively communicate about COVID-19 with scheduled and potential patients. Healthcare facilities should provide patients with updates about changes to policies and procedures regarding appointments, the potential for coordinating non-urgent patient care by telephone, and any visitor restrictions. One consideration could be to use the facility's website or social media platforms to share updates. Healthcare facilities should identify visitors and patients at risk for having COVID-19 infection before or immediately upon arrival to the healthcare facility. Before or immediately upon arrival for appointments, healthcare facilities should ask about the following:

1. Fever or symptoms of a respiratory infection, such as a cough and sore throat;
2. International travel within the last 14 days to CDC Level 3 risk countries. For updated information on restricted countries visit: <https://www.cdc.gov/coronavirus/2019-ncov/travelers/index.html>;
3. Contact with someone with known or suspected COVID-19;
4. Residing in a community where community-based spread of COVID-19 is occurring.

Furthermore, to promptly identify and manage patients, staff or visitors with undiagnosed respiratory symptoms, the following actions should be implemented:

- At the time the appointment is scheduled, ask patients to call ahead to report fever or respiratory symptoms so the healthcare facility can be prepared for their arrival or triage them to a more appropriate setting (e.g., an acute care hospital). If capacity allows,

call patients shortly before their appointment to ask if they have a fever or respiratory symptoms.

- Healthcare facilities should establish limited entry points for all patients and visitors and/or establish alternative sites for screening prior to entry.
- Healthcare facilities should identify those with fever or signs and symptoms of respiratory infections before they enter the waiting and treatment areas. Patients with fever or symptoms of a respiratory infection should put on a facemask (i.e., surgical mask) at check-in and keep it on until they leave the facility. The healthcare facility should provide the facemask if one is needed and available.
- Healthcare facilities should post signs at entrances with instructions (in appropriate languages) to patients with fever or symptoms of respiratory infection to alert staff who can implement appropriate precautions.
- Healthcare facilities should have the following supplies available to ensure adherence to hand and respiratory hygiene, and cough etiquette: tissues, no-touch receptacles for disposal of tissues, and hand hygiene supplies (e.g., alcohol-based hand sanitizer (ABHS))

### ***How should healthcare facilities monitor or restrict their staff?***

The same screening performed for patients and visitors should be performed for healthcare facility staff.

- Staff who have signs and symptoms of a respiratory infection should not report to work. Facilities should implement sick leave policies that are non-punitive, flexible and consistent with public health policies that allow ill staff members to stay home.
- Any staff that develop signs and symptoms of a respiratory infection while on-the-job, should:
  - Immediately stop work, put on a facemask, and self-isolate at home;
  - Inform the facility's infection professional/preventionist (or leadership/administrator if no infection professional is available), and include information on individuals, equipment, and locations the person came in contact with; and
  - Contact and follow the local health department recommendations for next steps (e.g., testing, locations for treatment). Refer to the CDC guidance for exposures that might warrant restricting asymptomatic healthcare personnel from reporting to work (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-hcp.html>).

Healthcare facilities should contact their local health department for questions, and frequently review the CDC website dedicated to COVID-19 for healthcare professionals (<https://www.cdc.gov/coronavirus/2019-nCoV/hcp/index.html>). Additional resources related to PPE and worker safety are located in the resources section of this memo.

### ***What is the return to work criteria for health care staff?***

Occupational health programs and public health officials making decisions about return to work for health care personnel (HCP) with confirmed COVID-19, or who have suspected COVID-19 (e.g., developed symptoms of a respiratory infection, e.g., cough, sore throat, shortness of breath, fever, but did not get tested for COVID-19) should be made according to the CDC guidelines <https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/hcp-return-work.html>.

### ***Should healthcare facilities restrict patients from bringing visitors with them to appointments?***

Healthcare facilities should set limitations on visitation. For example, limitations may include restricting the number of visitors per patient, or limiting visitors to those that provide

assistance to the patient, participate in a joint treatment session (i.e. counseling session) or limiting visitors under a certain age. For additional guidance on visitation, visit CMS: <https://www.cms.gov/files/document/qso-20-20-allpdf.pdf-0>.

**Note:** If a state implements actions pursuant to their authorities that exceed CMS requirements, (e.g., a ban on all visitation through a governor's executive order) a healthcare facility would not be out of compliance with CMS' requirements.

***How should healthcare facilities ensure appropriate cleaning and disinfection of environmental surfaces, medical devices and equipment?***

During environmental cleaning procedures, personnel should wear appropriate PPE to prevent exposure to infectious agents or chemicals (PPE such as gloves, gowns, masks, respirators, and eye protection). Environmental surfaces in patient care areas should be cleaned and disinfected, using an appropriate Environmental Protection Agency (EPA)-registered disinfectant on a regular basis (e.g., daily), when spills occur and when surfaces are visibly contaminated.

Healthcare facilities should use disinfectants on List N of the EPA website for EPA-registered disinfectants that have qualified under EPA's emerging viral pathogens program for use against SARS-CoV-2 (the cause of COVID-19) or other national recommendations.

Additional guidance related to appropriate cleaning and disinfection is available at CDC's Guideline for Disinfection and Sterilization in Healthcare Facilities (2008) for more information: <https://www.cdc.gov/infectioncontrol/guidelines/disinfection/index.html>.

***Are Medicare-participating healthcare facilities, such as ASCs, CMHCs, CORFs, OPTs, and RHCs/FQHCs required to remain open during this outbreak?***

The CMS health and safety requirements (i.e., the conditions of participation/conditions for coverage/certification) do not contain specific requirements for outpatient setting healthcare facilities to remain open during certain hours (e.g., Medicare-certified ASCs do not have the same statutory requirement of a hospital to provide 24 hour care). Therefore, if it is in the best interest of the facility's patients to cancel appointments and temporarily close the facility during an outbreak, that may be acceptable. Facilities should follow their emergency preparedness program policies and procedures to determine whether closure of the facility is appropriate and ensure patients receiving services are notified. Facilities should follow guidance of State and local health departments as conditions change in their state and area. CMS will not take administrative actions with respect to facilities who need to temporarily close during the outbreak, however, facilities are expected to resume operations or voluntarily terminate their Medicare enrollment within 30 days of the public health emergency being lifted.

***If a Medicare-participating healthcare facility decides to voluntarily close temporarily or is asked to close by a state or federal recommendation, would that constitute a cessation of business/voluntary termination?***

As a result of the ever evolving COVID-19 pandemic, CDC guidelines currently recommend delaying and rescheduling all elective and non-urgent visits/admissions to preserve staff, PPE, and patient care supplies (<https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/index.html>). Additionally, CMS released a statement on March 18, 2020 recommending that all elective surgeries, non-essential medical, surgical and dental procedures be delayed during the COVID-19 outbreak.

If a healthcare facility temporarily closes because it only provides elective cases/non-emergency treatment or appointments consistent with CDC and CMS recommendations, CMS would not view this as a cessation of business; therefore, would not be deemed as a voluntary termination of the Medicare agreement under 42 C.F.R. §489.52 or §416.35(a) (3). Facilities needing to temporarily shut down or limit operations should post notices at their business as well as on public facing websites and social media platforms during this emergency.

Any healthcare facility that temporarily closes or limits operations are strongly encouraged to reach out to their local community and state health department for possible partnerships, as the conservation and sharing of critical resources such as ventilators and PPE is essential during a national emergency.

### ***Will CMS issue waivers of certain health and safety requirements related to COVID-19?***

The Secretary of the Department of Health and Human Services (HHS) is authorized to waive certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) program requirements and health and safety requirements pursuant to Section 1135 of the Social Security Act once the President declares an emergency through the Stafford Act or National Emergency Act, and the Secretary declares a Public Health Emergency (PHE). Under this authority, CMS has activated various blanket waivers, which will ease certain requirements for impacted providers. CMS will also temporarily modify certain requirements. For more information on such waivers and modifications that CMS has granted, visit: [www.cms.gov/emergency](http://www.cms.gov/emergency). We note there is no standardized waiver application form or template that is required for a state or individual provider to submit a request for a section 1135 waiver. We have assembled a national team to assist with monitoring, retrieving and responding to all 1135 waiver requests and-related questions as soon as possible. Therefore, we ask that any 1135 waiver questions or requests be submitted to the mailboxes provided below in the contact information of this memorandum. For more information on submitting a waiver, visit: <https://www.cms.gov/About-CMS/Agency-Information/EPRO/How-We-Can-Help/How-We-Can-Help-page>.

If you are interested in reading the entire CMS document, please refer to <https://www.cms.gov/files/document/qso-20-22-asc-corf-cmhc-opt-rhc-fqhcs.pdf>.

### **Stay Informed**

We expect to see additional guidance as this outbreak continues, stay tuned and refer to our Coronavirus (COVID-19) Resource Center for ongoing guidance at: <https://shipmangoodwin.com/Coronavirus-COVID-19-Guidance>. If you have any questions, please do not hesitate to contact any member of our Health Law Practice Group listed on page 1.

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