



COMPLIANCE CONSULTING  
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# Memorandum

July 2, 2020

The Centers for Medicare and Medicaid Services (CMS) has issued a long-awaited clarification on several requirements related to the COVID-19 pandemic, including the steps nursing homes should take to reopen for visitors.

According to the update, CMS generally recommends that facilities wait until Phase III to allow visitors. Prior to Phase III, facilities are encouraged to be creative when implementing controlled visitation by using options such as outdoor visitation where social distancing and protective gear can be utilized. Decisions to reopen a facility to visitors should include an assessment of the surrounding community, the case status in the nursing home, staffing levels, access to testing and PPE, and local hospital capacity. Reopening should be coordinated with state and local officials.

The update also elaborates on “compassionate care situations” under which visits may be permitted prior to Phase III. CMS clarified that compassionate care is not synonymous with end-of-life situations. While acknowledging that every possible compassionate care situation cannot be defined or listed, examples include a newly admitted resident who is having a traumatic adjustment, or a resident whose family member or friend has recently passed away. However, CMS stresses that these visits should not be routine and should be allowed only on a limited basis.

With regard to communal activities, CMS has clarified that the current guidance is not intended to completely restrict communal activities, except in the case of a resident with either a confirmed case of COVID-19 or with symptoms consistent with COVID-19. Communal dining and group activities are allowed if social distancing is maintained, hand hygiene is observed, and appropriate PPE is donned.

CMS has also provided guidance on ombudsman visits with residents at facilities that do not allow visitors due to COVID-19 concerns. Residents have a right to, and facilities are required to allow, access to the state ombudsman by any resident. If in-person access is not available due to infection control concerns, facilities must enable resident communication through another method, such as by telephone, as soon as is practicable. As always, the ombudsman is allowed to examine facility records relating to the resident.

Lastly, CMS reminds all facilities that the waiver of certain discharge requirements, such as notifying the Office of the State Long-Term Care ombudsman prior to discharge, have been waived only for situations in which this will prevent the transmission of COVID-19. All other discharges must comply with requirements.

As always, state laws may require additional restrictions to the CMS announcement and clarification. The full FAQ can be found here: <https://www.cms.gov/files/document/covid-visitation-nursing-home-residents.pdf>