



COMPLIANCE CONSULTING
GROUP, LLC

Memorandum

May 8, 2020

Updates to Requirements for Notification of Confirmed and Suspected COVID-19 Cases Among Residents and Staff in Nursing Homes

A. Introduction

On May 6, 2020, CMS released a memo detailing a number of new infection control reporting requirements directly related to the COVID-19 pandemic as well as updates to the previously released Focused Survey of Nursing Homes documents. Below is a summary of the new requirements.

B. Prior Requirements

Prior to the COVID-19 pandemic, per 42 CFR §483.80(a)(2)(ii) skilled nursing facilities and nursing facilities were already required:

- to have written standards, policies, and procedures regarding infection control, and
- to include procedures detailing when and to whom possible incidents of communicable disease or infections should be reported, such as to local/state health authorities.

C. New Reporting Requirements

To support surveillance of COVID-19 cases and increase transparency for residents, their representatives, and families, CMS added new reporting requirements for confirmed or suspected COVID-19 cases. This information will be posted publicly by CMS to support protecting the health and safety of residents, personnel, and the general public.

Effective immediately, nursing facilities:

1. must electronically **report** information about COVID-19 no less than weekly **to the Centers for Disease Control and Prevention's (CDC) National Healthcare Safety Network (NHSN)** using the NHSN Long-Term Care Facility COVID-19 Module. The report must include, but is not limited to —
 - i. suspected and confirmed COVID-19 infections among residents and staff, including residents previously treated for COVID-19;
 - ii. total deaths and COVID-19 deaths among residents and staff;
 - iii. personal protective equipment and hand hygiene supplies in the facility;
 - iv. ventilator capacity and supplies in the facility;
 - v. resident beds and census;
 - vi. access to COVID-19 testing while the resident is in the facility;
 - vii. staffing shortages; and
 - viii. other information specified by the HHS Secretary.

2. must **inform residents, their representatives, and families** of those residing in facilities by 5p.m. the next calendar day following the occurrence of either a single confirmed infection of COVID-19, or three or more residents or staff with new-onset of respiratory symptoms occurring within 72 hours of each other. The information provided to residents, their representatives, and families must —
 - i. not include personally identifiable information;
 - ii. include information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations of the facility will be altered; and
 - iii. include any cumulative updates for residents, their representatives, and families at least weekly or by 5 p.m. the next calendar day following the subsequent occurrence of either: each time a confirmed infection of COVID-19 is identified, or whenever three or more residents or staff with new onset of respiratory symptoms occur within 72 hours of each other.

Note that there are a variety of ways that facilities can meet this requirement to inform residents, their representatives, and families. Such notifications can be achieved through email listservs, website postings, paper notification, and/or recorded telephone messages. CMS does not expect facilities to make individual telephone calls to each resident's family or responsible party to inform them that a resident in the facility has laboratory-confirmed COVID-19. However, CMS does expect facilities to take reasonable efforts to make it easy for residents, their representatives, and families to obtain the information facilities are required to provide.

D. Reporting COVID-19 Information to CDC's NHSN

1. Registration Process. The *NHSN Long-Term Care Facility COVID-19 Module* is currently available, and facilities should immediately gain access to the NHSN system and visit the home page <https://www.cdc.gov/nhsn/> for important information, including how to register: The following provides an overview of the registration process:

Step 1: Prepare your computer to interact with NHSN

You may need to change your email and internet security settings to receive communications from NHSN during the enrollment process.

Step 2A: Register your Facility with NHSN

The person who will serve as the NHSN Facility Administrator must access and read the NHSN Facility/Group Administrator Rules of Behavior from <https://nhsn.cdc.gov/RegistrationForm/index>

Step 2B: Register with SAMS (Security Access Management System)

After CDC receives your completed registration, you will receive an Invitation to Register with SAMS via email

Step 3: Complete NHSN Enrollment

On the SAMS homepage, click the link to the NHSN labeled NHSN Enrollment and Complete Facility Contact Information

Step 4: Electronically Accept the NHSN Agreement to Participate and Consent

After successfully completing enrollment, the NHSN Facility Administrator and Component Primary Contact (who may be the same person) will receive an NHSN email with instructions on how to electronically accept the NHSN Agreement to Participate and Consent.

Please note: It is critical for facilities to ensure their CMS Certification Number (CCN) is entered correctly into the NHSN system, so CMS can confirm the facility has met the reporting requirement.

2. Reporting Deadline.

- i. **Facilities must submit their first set of data by 11:59 p.m. Sunday, May 17, 2020.**
- ii. Facilities must submit the data through the NHSN reporting system **at least once every seven days.**
- iii. Facilities may choose to submit multiple times a week.
- iv. The data should be submitted on the same day(s) each week and the collection period should also remain consistent (e.g., Monday through Sunday).
- v. Each Monday, CMS will review the data submitted to assess if the facility submitted data at least once in the previous seven days. The data pulled each Monday will also be used to update the data that is publicly reported.

E. Enforcement

1. Failure to report to the CDC's NHSN and to residents, their representatives, and families will result in the following newly created tags:
 - i. **F884 COVID-19 Reporting to CDC**
 - (a) Noncompliance with this requirement will result in a facility receiving a deficiency citation as well as the imposition of a civil money penalty (CMP).
 - (b) CMS will provide facilities with an initial two-week grace period to begin reporting cases in the NHSN system (which ends at 11:59 p.m. on May 24, 2020).
 - (c) Facilities that fail to begin reporting after the third week (by 11:59 p.m. on May 31st) will receive a warning letter reminding them to begin reporting the required information to CDC.
 - (d) For facilities that have not started reporting in the NHSN system by 11:59 p.m. on June 7th, ending the fourth week of reporting, CMS will impose a per day (PD) CMP of \$1,000 for one day for the failure to report that week.
 - (e) For each subsequent week that the facility fails to submit the required report, the noncompliance will result in an additional one-day PD CMP imposed at an amount increased by \$500.
 - ii. **F885 COVID-19 Reporting to Residents, their Representatives, and Families** for failure to properly inform residents, their representatives, and families of those residing in facilities by 5p.m. the next calendar day following the occurrence of either a single confirmed infection of COVID-19, or three or more residents or staff with new-onset of respiratory symptoms occurring within 72 hours of each other.