

March 18, 2020

Douglas O'Brien
Regional Director, CMS Chicago Regional Office
Centers for Medicare and Medicaid Services
Chicago Regional Office
233 N. Michigan Avenue Suite 1300
Chicago, IL 60601

Mr. O'Brien,

On behalf of Wisconsin's long term care provider community, LeadingAge Wisconsin and the Wisconsin Health Care Association and the Wisconsin Center for Assisted Living (WHCA/WiCAL) respectfully request approval for the below detailed flexibilities under Section 1135 of the Social Security Act (42 U.S.C. S 1320b-5) as related to the Novel Coronavirus (COVID-19).

Collectively the two associations represent nearly all of the nursing homes in the State of Wisconsin; with that said, the intent of this request is to have these waivers apply to all nursing facilities in the State of Wisconsin. Further, we believe that given the significant challenges facing nursing homes across the country, the Centers for Medicare and Medicaid Services (CMS) should seriously consider a nationwide blanket waiver related to most or all of these concerns.

The following measures are requested:

- Allow non-certified staff and volunteers to provide care and services as deemed appropriate by the facility, and establish processes to quickly direct individuals not working due to the COVID-19 crisis (closed schools, restaurants, churches, etc.) to quickly join the long-term care workforce. Issue a blanket waiver for laid off workers to work in long-term care under the supervision of nurse in a SNF, with guidance on scope of services these individuals can provide.
- Allow prospective CNAs to receive credit for past experience to serve as a CNA in the certification process.
- Authorize a blanket waiver to allow facilities to conduct on-line CNA Training, including on-line clinical training.
- Waive the CNA training lockout on facilities with CMPs, extended surveys, partial extended surveys, or DDPNAs prohibiting these facilities from serving as CNA training, testing and clinical sites for two years.
- Rescind past CMS decision to deny the expansion and Civil Money Penalty (CMP) funding for Wisconsin's WisCaregiver Career Program. This program was previously approved by CMS but this year was denied due to the CMS policy on the use of CMP funds. The Wisconsin program was launched in 2018 by the Wisconsin Department of Health Services (DHS) in an effort to attract and retain more nursing home caregivers. To date, more than 9,000 people have registered for the program and 3,000 people have enrolled in training.
- Suspend the imposition of CMP and DDPNA penalties, including the CMS Chicago policy to impose DDPNAs within 15 days of issuance of the SOD, except for IJ violations.
- Waive the preadmission screening (PASRR) of applicants for admissions to nursing facilities: Temporary suspension of pre-admission screening and annual resident review which will allow a nursing home to continue admission of an individual who has not had assessment completed if there is a workforce disruption or hospitals reduce or limit outside contact in their facilities.

- Waive the 30/60/90-day schedule requirement for in-person physician visits for nursing home residents and allow visits to be conducted, as appropriate, via telehealth options.
- Create provisions allowing for additional flexibilities to allow for the utilization of physician extenders in place of Medical Directors and attending physicians, and via telehealth options.
- Immediately authorize the waiver of the 3-day hospital stay requirement to enable persons in need of skilled nursing care to receive Medicare coverage nursing home care.
- Allow nursing homes to implement time-savings processes limiting full completion of the MDS while still maintaining Medicare/Medicaid payment levels for these residents.
- Suspension of the 120-day limitation on CNAs who have not been able to take a test to become certified.
- Waive non-emergency Life Safety Code requirements that need outside vendors visiting a facility.

Thank you for your consideration. Please do not hesitate to contact us with questions or concerns.

Sincerely,

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