

Questions & Answers
Nursing Facility/Skilled Nursing Facility/ICF-IID Provider Call

Wednesday, June 21, 2022

1:00 PM – 2:00 PM

Disclaimer: Information and responses to questions provided during the Provider Calls are turned around quickly and may occasionally reference regulatory language from different regulatory sets. It is our goal to provide the most accurate information. Therefore, the Q&As are thoroughly researched following each call to ensure complete and accurate information is provided in written responses based on the correct regulatory sets and/or CDC guidance. Please contact LTC for any questions.

Links provided in the Q&A chat box or in Q&A can be located at the end of this document.

1. Q: CMS' final rule for ending the vaccine mandate was published on June 5th but the effective date is not until August 4th, correct?

A: Once a rule is published there is a 60-day waiting period before it takes effect. The rule will take effect on or about Aug. 4. While the final rule is not yet effective, CMS decided to forgo the waiting period and has said, as of June 5, 2023, it does not intend to enforce staff vaccination requirements before the effective date of the final rule.

2. Q: Are enhanced barrier precautions required at LTC/SNF facilities?

A: The CDC presented the updated recommendations for the use of Enhanced Barrier Precautions (EBP) in nursing homes during the July 2022 National Nursing Home Stakeholder call. CMS noted at that time, these were recommendations only – not regulations. EBP are not required.

It might be beneficial for facilities to consider EBP. EBP is a broader approach that focuses staff efforts on the residents and activities that pose the highest risk for spread of MDROs without isolating residents to a private room for a long period of time and restricting participation in group activities. EBP is recommended for residents infected or colonized with a MDRO *when contact precautions do not otherwise apply (e.g., acute diarrheal illness)*, and when wounds and/or indwelling medical devices are present regardless of a known MDRO status.

Transmission-based precautions (TBP) are different from EBP - if someone requires true TBP they cannot choose to use EBP instead. TBP are required. Information related to EBP can be located at [Implementation of Personal Protective Equipment \(PPE\) Use in Nursing Homes to Prevent Spread of Multidrug-resistant Organisms \(MDROs\) | HAI | CDC](#).

3. Q: Is it still required to have the COVID-19 matrix filled out for current staff?

A: Surveyors will not be requesting, or requiring, facilities to complete the Staff Vaccination Matrix. The surveyors will be asking for a list of all residents and staff members which document their

vaccination status. Many facilities have used the Staff Vaccination Matrix as a way to track the staff vaccination status and may opt to continuing using it for this purpose, but it is no longer required.

4. Q: How often do we need to educate and offer vaccine to our staff. Through the emergency- we did it twice a month. Now is it a once and done?

A: Staff and residents should be educated about the vaccine any time CDC updates the vaccine recommendations. This could include the updated Pfizer-BioNTech or Moderna COVID-19 vaccine recently recommended. Everyone aged 6 years and older is considered up to date when they get 1 updated Pfizer-BioNTech or Moderna COVID-19 vaccine, regardless of whether they've received any original COVID-19 vaccines. Staff and residents who were hesitant to receive an mRNA vaccine could be educated about the Novavax vaccine which is not an mRNA vaccine but a protein subunit vaccine. These are some examples of when staff and residents should be educated. When staff and residents are educated about the recommended vaccine options, they may be more willing to take the vaccine, which in turn, will increase the facility's uptake numbers. The current CDC vaccine recommendations can be located at [Stay Up to Date with COVID-19 Vaccines | CDC](#).

[QSO-21-19-NH \(cms.gov\)](#) reads in parts,

"§483.80 Infection control...

(d) Influenza, pneumococcal, and COVID-19 immunizations...

(3) COVID-19 immunizations. The LTC facility must develop and implement policies and procedures to ensure all the following...

(iv) In situations where COVID-19 vaccination requires multiple doses, the resident, resident representative, or staff member is provided with current information regarding those additional doses, including any changes in the benefits or risks and potential side effects, associated with the COVID-19 vaccine, before requesting consent for administration of any additional doses.

GUIDANCE

Education...

If the vaccination requires multiple doses of vaccine, the resident or resident representative and staff are again provided with education regarding the benefits and potential side effects of the vaccine and current information regarding those additional doses, including any changes in the benefits or potential side effects, before requesting consent for administration of any additional doses. The resident, resident representative, or staff member must be provided the opportunity to refuse the vaccine and to change their decision about vaccination at any time.

5. Q: Do the survey updates apply to ICFs-IID?

A: Regarding the updates provided during the 1:00 p.m. provider call, ICF-IID does have an obligation for Infection, Prevention and Control (§483.470(l) Standard: Infection Control) and to follow the standards of practice.

6. Q: How do we know what a "crime" is. What are legal definitions? Any and all neglect, verbal abuse, physical abuse? Law enforcement is unsure as well when investigating abuse in NH.

A: There is no one-size-fits-all answer to this question. CMS provides the definition, "... a "crime" is defined by law of the applicable political subdivision where the facility is located..." Facilities are encouraged to hold discussions with the local law enforcement agencies to determine what is considered a crime in their jurisdiction.

[Appendix PP](#) reads in parts,
"F609

*§483.12(b) The facility must develop and implement written policies and procedures that:
§483.12(b)(5) Ensure reporting of crimes occurring in federally-funded long-term care facilities in accordance with section 1150B of the Act [Social Security Act]. The policies and procedures must include but are not limited to the following elements...*

DEFINITIONS

"Crime": Section 1150B(b)(1) of the Act provides that a "crime" is defined by law of the applicable political subdivision where the facility is located. A political subdivision would be a city, county, township or village, or any local unit of government created by or pursuant to State law...

ENSURING THE REPORTING OF A REASONABLE SUSPICION OF A CRIME

A facility's policies and procedures for reporting under 42 CFR 483.12(b)(5) should specify the following components, which include, but are not limited to:

- Identification of who in the facility is considered a covered individual;
- Identification of crimes that must be reported;

NOTE: Each State and local jurisdiction may vary in what is considered to be a crime and may have different definitions for each type of crime. Facilities should consult with local law enforcement to determine what is considered a crime.

- Identification of what constitutes "serious bodily injury;"
- The timeframe for which the reports must be made; and
- Which entities must be contacted, for example, the State Survey Agency and local law enforcement...

Surveyors must review whether the facility has included in its policies and procedures examples of crimes that would be reported. Examples of situations that would likely be considered crimes in all subdivisions would include but are not limited to:

- Murder;
- Manslaughter;
- Rape;
- Assault and battery;
- Sexual abuse;
- Theft/Robbery;
- Drug diversion for personal use or gain;
- Identity theft; and

- *Fraud and forgery.*

There are political subdivisions that have other examples for which instances of elder mistreatment are considered to be crimes. Because all reasonable suspicions of crimes must be reported, regardless of whether it is perpetrated by facility staff, residents, or visitors, it would be especially beneficial for the facility to work with local law enforcement in determining what would not be reported (e.g., all cases of resident to resident conflict may not rise to the level of abuse and may not be appropriate to report to local law enforcement) ...”

F609 also provides several Tables which provide guidance on what may, or may not, be reportable related to staff-to-resident abuse; resident-to-resident altercations; injuries of unknown source; misappropriation of resident property/exploitation; and mistreatment.

7. Q: Can we have the email for the person responsible for reporting?

A: Submit an email to LTC@health.ok.gov or call 405-426-8200.

8. Q: Is screening of staff and visitors still required prior to entry?

A: No, it is not. [QSO-20-39-NH revised 05/08/23](#) reads in parts,

“Core Principles of COVID-19 Infection Prevention and Control (IPC)

- *Facilities should provide guidance (e.g., posted signs at entrances) about recommended actions for visitors who have a positive viral test for COVID-19, symptoms of COVID-19, or have had close contact with someone with COVID-19. Visitors with confirmed COVID19 infection or compatible symptoms should defer non-urgent in-person visitation until they meet CDC criteria for healthcare settings to end isolation. For visitors who have had close contact with someone with COVID-19 infection, it is safest to defer non-urgent in-person visitation until 10 days after their close contact if they meet criteria described in CDC healthcare guidance (e.g., cannot wear source control) ...*
- *Post visual alerts (e.g., signs, posters) at the entrance and in strategic places (e.g., waiting areas, elevators, cafeterias) These alerts should include instructions about current IPC recommendations (e.g., when to use source control) ...”*

The CDC [Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 \(COVID-19\) Pandemic](#) reads in parts,

“Establish a Process to Identify and Manage Individuals with Suspected or Confirmed SARS-CoV-2 Infection

- *Ensure everyone is aware of recommended IPC practices in the facility.*
 - *Post [visual alerts](#) (e.g., signs, posters) at the entrance and in strategic places (e.g., waiting areas, elevators, cafeterias). These alerts should include instructions about current IPC recommendations (e.g., when to use source control and perform hand hygiene). Dating these alerts can help ensure people know that they reflect current recommendations.*

- *Establish a process to make everyone entering the facility aware of recommended actions to prevent transmission to others if they have any of the following three criteria:*
 - 1) a positive viral test for SARS-CoV-2
 - 2) [symptoms of COVID-19](#), or
 - 3) close contact with someone with SARS-CoV-2 infection (for patients and visitors) or a [higher-risk exposure \(for healthcare personnel \(HCP\)\)](#).
 - *For example:*
 - *Instruct HCP to report any of the 3 above criteria to occupational health or another point of contact designated by the facility so these HCP can be properly managed.*
 - *The definition of higher-risk exposure and recommendations for evaluation and work restriction of these HCP are in the [Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2](#).*
 - *Provide guidance (e.g., posted signs at entrances, instructions when scheduling appointments) about recommended actions for patients and visitors who have any of the above three criteria.*
 - *Patients should be managed as described in Section 2.*
 - *Visitors with confirmed SARS-CoV-2 infection or compatible symptoms should defer non-urgent in-person visitation until they have met the healthcare criteria to end isolation (see Section 2); this time period is longer than what is recommended in the community. For visitors who have had close contact with someone with SARS-CoV-2 infection or were in another situation that put them at [higher risk for transmission](#), it is safest to defer non-urgent in-person visitation until 10 days after their close contact if they meet any of the criteria described in Section 2 (e.g., cannot wear source control)...*

9. Q: Can you tell me if facilities are allowed to post the door code if we are not in outbreak or is there any guidance out there on this?

A: This will depend on the facility's policies and procedures as required in F563 (see below). It contains guidance on "reasonable clinical and safety restrictions" that protect the health and security of all residents and staff. This may include keeping the facility locked and secure with a system in place allowing visitors entry. Some things the facility may want to consider when posting the door code are: Are there any residents who wander or exit-seek? Could they use the code pad if they knew the code? Where will you post the code? How will the facility ensure visitors will not allow residents to exit along with them?

F563 reads in parts,

"§483.10(f)(4) The resident has a right to receive visitors of his or her choosing at the time of his or her choosing, subject to the resident's right to deny visitation when applicable, and in a manner that does not impose on the rights of another resident..."

(v) *The facility must have written policies and procedures regarding the visitation rights of residents, including those setting forth any clinically necessary or reasonable restriction or limitation or safety restriction or limitation, when such limitations may apply consistent with the requirements of this subpart, that the facility may need to place on such rights and the reasons for the clinical or safety restriction or limitation.*

Guidance

“Reasonable clinical and safety restrictions” include a facility’s policies, procedures or practices that protect the health and security of all residents and staff. These may include, but are not be limited to...

- *Keeping the facility locked or secured at night with a system in place for allowing visitors approved by the resident...”*

The only guidance found in Appendix PP related to providing access code information is found in F603 related to involuntary seclusion. The guidance reads in part, *“NOTE...The chosen method for opening doors (e.g., distribution of access code information) is not specified by CMS...”*

Links provided in the Q&A chat box or in Q&A:

CDC - COVID-19 by County - where you can look at your specific county information
<https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>

CDC - COVID Data Tracker "Maps" from side toolbar https://covid.cdc.gov/covid-data-tracker/#cases_new-admissions-rate-county

CDC – (EBP) - Implementation of Personal Protective Equipment (PPE) Use in Nursing Homes to Prevent Spread of Multidrug-resistant Organisms (MDROs) - <https://www.cdc.gov/hai/containment/PPE-Nursing-Homes.html>

CDC - NHSN updates/recordings <https://www.cdc.gov/nhsn/ltc/covid19/index.html>

CDC - Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic - https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhcp%2Ftesting-healthcare-personnel.html

CDC - Stay Up to Date with COVID-19 Vaccines - <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html>

CMS - QSO-20-29-NH - <https://www.cms.gov/files/document/qso-20-29-nh.pdf>

CMS - QSO-20-39-NH - <https://www.cms.gov/files/document/qso-20-39-nh-revised.pdf>



CMS - QSO-21-19-NH (Interim Final Rule - COVID-19 Vaccine Immunization Requirements for Residents and Staff) - <https://www.cms.gov/files/document/qso-21-19-nh.pdf>

CMS – State Operations Manual – Appendix PP - https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltcf.pdf

OSDH Contacts:

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