

CMS Issues Two Memos on Nursing Home Visitation and Increased Nursing Home Oversight

On November 12, 2021, the Centers for Medicare and Medicaid Services (CMS) issued two nursing home memos. The first, [QSO-20-39-NH](#), addresses nursing home visitation. The memo requires nursing homes to urge staff and residents to become vaccinated by providing education on the risks and benefits of the vaccine, and to offer to administer the vaccine and report vaccination data to the Centers for Disease Control and Prevention. CMS notes that the number of new COVID-19 cases has dramatically decreased. And while CMS remains concerned about the staff vaccination rate, it also notes it has taken additional measures to improve staff vaccination rates by issuing the nursing home staff vaccination mandate on November 4, 2021. CMS therefore believes further restrictions on residents' visitation rights are no longer necessary.

According to the memo, all nursing homes must, at all times, provide indoor visitation for all residents. The facility can no longer restrict the frequency and length of the visit or the number of visitors or require advance scheduling of visitors. Visits should adhere to the core principles of COVID-19 infection prevention. Facilities are urged to contact local public health for guidance on structuring visitation. The memo also provides visitation masking guidance and visitation guidance during outbreaks. Finally, the revised memo provides guidance on visitor testing and vaccination, compassionate care visits, required visitation, entry of other health care workers, communal dining and activities and survey considerations.

The second memo, [QSO-22-20-ALL](#), addresses increased nursing home oversight. CMS recognizes the pandemic survey focus on infection control has created a backlog of complaint and recertification surveys. To address this backlog, CMS is refocusing its survey efforts on quality of care and quality of life issues for nursing home residents. As recertification surveys resume, facilities can expect new survey intervals based on each facility's next survey, not last survey. CMS will prioritize recertification surveys based on potential risk to residents such as facilities with a history of noncompliance or with allegations concerning abuse/neglect, infection control issues, inappropriate discharge or transfer, staffing, Special Focus Facilities and quality of care issues such as falls or pressure sores.

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Complaint and facility-reported incidents will be the priority, especially those triaged as immediate jeopardy. Facilities can expect survey visits after such incidents to occur within two to 10 days following the facility report. It would not be a surprise to see a number of combined recertification/complaint surveys where surveyors are in the facility for a longer period of time.

As part of this increased nursing home oversight, CMS will also look at nurse and nurse aide competencies and skill level, and in general nursing services. Other areas of stated focus will be inappropriate use of antipsychotic medications, unintended weight loss, pressure sores, loss of function/mobility, depression and abuse/neglect.

If you have questions concerning CMS's nursing home memos, contact [Robert Lightfoot](#) or your Reinhart attorney.

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