

Hospice – UPDATED 5/13/2020

CMS announced [additional blanket waivers](#) on May 11, 2020

New 5/11 Life Safety Code (§418.110(d) for inpatient hospice)

- Alcohol-Based Hand Rub: CMS is waiving prescriptive requirements around the placement of alcohol-based hand rub dispensers. Note that alcohol-based hand rubs must continue to be placed and stored in a manner that prevents accidental ingestion and considers the increased fire risk associated with containers over 5 gallons (refer to 2012 LSC, sections 18/19.3.2.6).
- Fire Drills: CMS is waiving the requirement for a quarterly fire drill due to safety and social distancing concerns associated with the congregation of staff during fire drills. Instead, CMS will permit a documented orientation training program related to the current fire plan. Recall that facility conditions, including physical environment and operations, may have changed as your organization responds to COVID-19. Your fire plan should address these changes. Staff should be instructed on current duties, life safety procedures, and fire protection devices in their assigned area (refer to 2012 LSC, sections 18/19.7.1.6).
- Temporary Construction: CMS is waiving requirements that would otherwise prohibit temporary walls and barriers between patients. Note that these temporary barriers may be in use as environmental controls or physical environment modifications in response to COVID-19 (refer to 2012 LSC, sections 18/19.3.3.2).

New 4/30 Training and Assessment of Aides

- Annual on-site supervisory visits by nurses are postponed for the duration of the public health emergency at §418.76(h)(2). All postponed onsite assessments must be completed by these professionals no later than 60 days after the expiration of the public health emergency.

New 4/30 Quality Assessment and Performance Improvement (QAPI)

- CMS is narrowing the scope of the QAPI program at §418.58(a)–(d) to concentrate on infection control issues, while retaining the requirement that remaining activities should continue to focus on adverse events. The requirement that hospices maintain an effective, ongoing, agency-wide, data-driven quality assessment and performance improvement program will remain.

New 4/30 Annual Training

- The requirement for hospices at §418.100(g)(3) to annually assess the skills and competence of all individuals furnishing care and provide in-service training and education programs where required is postponed throughout the public health emergency until the end of the first full quarter after the declaration of the public health emergency concludes.

This does not alter the minimum personnel requirements at §418.114. Selected hospice staff must complete training and have their competency evaluated in accordance with unwaived provisions of §418.

New 4/30 Inspection, Testing & Maintenance (ITM) under the Physical Environment Conditions of Participation

- CMS is temporarily modifying the requirement at §418.110(c)(2)(iv) to the extent necessary to permit inpatient hospices to adjust scheduled inspection, testing and maintenance frequencies and activities for facility and medical equipment.
- CMS is temporarily modifying §482.41(d)(1)(i) and (e) to the extent necessary to permit these inpatient hospices to adjust scheduled ITM frequencies and activities required by the Life Safety Code (LSC) and Health Care Facilities Code (HCFC). The following LSC and HCFC ITM are considered critical are not included in this waiver:
 - Sprinkler system monthly electric motor-driven and weekly diesel engine-driven fire pump testing.
 - Portable fire extinguisher monthly inspection.
 - Elevators with firefighters’ emergency operations monthly testing.
 - Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing.
 - Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency.
- CMS will permit a waiver of outside window and outside door requirements at §418.110(d)(6) to permit inpatient hospices to utilize facility and non-facility space that is not normally used for patient care to be utilized for temporary patient care or quarantine.

<u>What did LeadingAge/VNAA/EH ask for</u>	Did we get it	<u>What is in the rule</u>
<ul style="list-style-type: none"> • Relaxing requirements for the hospice comprehensive assessment 	Yes	<ul style="list-style-type: none"> • Hospices must continue to complete the required assessments and updates, however, the timeframes for updating the assessment may be extended from 15 to 21 days.
<ul style="list-style-type: none"> • Allowing contracting for core services (42 CFR 418.64) 	No	<ul style="list-style-type: none"> • CMS is waiving the requirement for hospices to provide certain non-core hospice services during the national emergency, including the requirements at 42 CFR §418.72 for physical therapy, occupational

		therapy, and speech-language pathology.
<ul style="list-style-type: none"> Permitting telephonic or video supervision of hospice aides in lieu of the mandatory in-person nurse visit every 14 days 	Yes - got more!	<ul style="list-style-type: none"> CMS is waiving the requirements that a nurse conduct an onsite visit every two weeks to evaluate if aides are providing care consistent with the care plan.
<ul style="list-style-type: none"> Allowing hospices to utilize pseudo patients in the aide competency testing 	Yes - added 4/9	<ul style="list-style-type: none"> Hospices are allowed to use pseudo-patients (a person roleplaying or computer-based mannequin device) for aide competency testing in order to get new aides to work faster
<ul style="list-style-type: none"> Waiving the 5% level of activity requirement 	Yes	<ul style="list-style-type: none"> CMS is waiving the requirement that hospices are required to use volunteers (including at least 5% of patient care hours).

Other waivers

In addition to the items included in LeadingAge’s 1135 waiver request, the following provisions are included in the hospice waivers:

New 4/9: CMS also waived the annual 12-hour in service training requirement for hospice aides to allow hospice aides and the nurses who would be supervising the training to spend more time on direct patient care.

Medicare telehealth during the emergency period

- Hospice providers can provide services to a Medicare patient receiving routine home care through telecommunications technology (including audio-only technology), if it is feasible and appropriate to do so. This includes the initial and comprehensive assessments, but hospices must be mindful of being able to fulfill the requirements of these assessments and use their judgement as to whether that is feasible in each individual case. See our article on this topic for more information.
- Face-to-face encounters for purposes of patient recertification for the Medicare hospice benefit can now be conducted via telehealth (audio-visual technology must be used).

Suspending audits during the emergency period

- CMS has suspended most Medicare Fee-For-Service (FFS) medical review during the emergency period due to the COVID-19 pandemic. This includes pre-payment medical reviews conducted by

- Medicare Administrative Contractors (MACs) under the Targeted Probe and Educate (TPE) program, and post-payment reviews conducted by the MACs, Supplemental Medical Review Contractor (SMRC) reviews and Recovery Audit Contractor (RAC).
- No additional documentation requests will be issued for the duration of the PHE for the COVID-19 pandemic.
- TPE reviews that are in process will be suspended and claims will be released and paid. Current post-payment MAC, SMRC, and RAC reviews will be suspended and released from review. This suspension of medical review activities is for the duration of the PHE.
- However, CMS may conduct medical reviews during or after the PHE if there is an indication of potential fraud.

Cost reports

CMS is delaying the filing deadline of certain cost report due dates due to the COVID-19 outbreak.

- CMS will delay the filing deadline of FYE 10/31/2019 cost reports due by March 31, 2020 and FYE 11/30/2019 cost reports due by April 30, 2020.
- The extended cost report due dates for these October and November FYEs will be June 30, 2020.
- CMS will also delay the filing deadline of the FYE 12/31/2019 cost reports due by May 31, 2020.
- The extended cost report due date for FYE 12/31/2019 will be July 31, 2020.

New 4/26 Accelerated/Advanced Payments

- CMS will **not** be accepting any new applications for the Advance Payment Program, and CMS will be reevaluating all pending and new applications for Accelerated Payments. [Details are available](#) from CMS.
- CMS is authorized to provide accelerated or advance payments during the period of the public health emergency to any Medicare provider/supplier who submits a request to the appropriate Medicare Administrative Contractor (MAC) and meets the required qualifications.