

The Least You Need to Know: The Public Health Emergency (PHE) has been renewed on October 13th, for another 90 days. This renewal will maintain the PHE waivers until at least January 11th, 2023. The federal government has granted hospices flexibilities through their 1135 waivers for over two years. This renewal will allow hospice providers to continue to use these waivers as needed. This is key right now, as agencies continue to face the workforce issues that the pandemic has exacerbated.

The Continued Waiver Flexibilities Include:

Training and Assessment of Aides. CMS has been waiving the requirement at 42 CFR §418.76(h)(2) which require a registered nurse, or in the case of an HHA a registered nurse or other appropriate skilled professional (physical therapist/occupational therapist, speech language pathologist) to make an annual onsite supervisory visit (direct observation) for each aide that provides services on behalf of the agency. In accordance with section 1135(b)(5) of the Act, we are postponing completion of these visits. All postponed onsite assessments must be completed by these professionals no later than 60 days after the expiration of the PHE. CMS will end this waiver at the conclusion of the PHE.

Quality Assurance and Performance Improvement (QAPI).

CMS is modifying the requirement at 42 CFR §418.58 for Hospice and §484.65 for HHAs, which requires these providers to develop, implement, evaluate, and maintain an effective, ongoing, hospice/HHA-wide, datadriven QAPI program. Specifically, CMS is modifying the requirements at §418.58(a)–(d) and §484.65(a)–(d) to narrow the scope of the QAPI program to concentrate on infection control issues, while retaining the requirement that remaining activities should continue to focus on adverse events.

Waive Requirement for Hospices to Use Volunteers.

CMS is waiving the requirement at 42 CFR §418.78(e) that hospices are required to use volunteers (including at least 5% of patient care hours). It is anticipated that hospice volunteer availability and use will be reduced related to COVID-19 surge and potential quarantine.

Comprehensive Assessments. CMS is waiving certain requirements at 42 CFR §418.54 related to updating comprehensive assessments of patients. This waiver applies the timeframes for updates to the comprehensive assessment found at §418.54(d). 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.

Waive Non-Core Services. CMS is waiving the requirement for hospices to provide certain noncore hospice services during the national emergency, including the requirements at 42 CFR §418.72 for physical therapy, occupational therapy, and speech-language pathology.

Waived Onsite Visits for Hospice Aide

Supervision. CMS is waiving the requirements at 42 CFR §418.76(h), which require a nurse to conduct an onsite supervisory visit every two weeks.

12 hour Annual In-service Training Requirement for Hospice Aides.

42 CFR 418.76(d). CMS is waiving the requirement that hospices must assure that each hospice aide receives 12 hours of in-service training in a 12 month period. This allows aides and the registered nurses (RNs) who teach in-service training to spend more time delivering direct patient care.



Continued Waiver Flexibilities...

Annual Training. CMS is modifying the requirement at 42 CFR §418.100(g) (3), which requires hospices to annually assess the skills and competence of all individuals furnishing care and provide in-service training and education programs where required.

Survey Updates

It should also be noted that CMS has rescinded the special focused infection control surveys. Surveys are back to “business as usual”, but certainly will spend plenty of time enforcing our current COVID-19 vaccine policies/COPs, infection control and surveillance and emergency preparedness regulations. Your agency’s source control processes will also be reviewed by the surveyor. The CDC currently recommend health care providers should monitor the CDC “Community Transmission” rate for your county. When the transmission rate is “High”, your agency must return to masking and source control.

Actions of a Prudent Hospice™

ONE. Review your current processes to understand what PHE waivers your agency is still utilizing. Create a plan and roadmap to full compliance prior to January 2023.

TWO. Ensure your agency is maintaining COVID Vaccine policies and tracking vaccination status or exemptions.

THREE. Continue to be diligent with infection control. Monitor your “Community Transmission Rate” found at: https://covid.cdc.gov/covid-data-tracker/#county-view?list_select_state=Florida&data-type=Risk

Links to More Information

CMS Declaration of Waivers updated October 2022

<https://www.cms.gov/files/document/covid-19-emergency-declaration-waivers.pdf>

Survey Update QSO from CMS:

<https://www.cms.gov/files/document/qso-21-08-nltc-revised.pdf>

Community Transmission CDC website:

https://covid.cdc.gov/covid-data-tracker/#county-view?list_select_state=Florida&data-type=Risk

PLEASE NOTE: Make sure you are reviewing the “Community Transmission Rate”, which is the last data in the drop down under “Data Type”. The default is set to COVID-19 Community Levels and this is not the standard healthcare workers are to use. **You must select Community Transmission manually in the drop down.** Ensure your infection control policy has standards of weekly monitoring of these rates, and actions for source control/masking when the rates are high.

