

# COVID-19 Weekly Industry Updates

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## CMS Announces Findings at Kirkland Nursing Home and New Targeted Plan for Healthcare Facility Inspections in light of COVID-19

Published by: The Center for Medicare & Medicaid Services

Introduction: In light of COVID-19, CMS has announced a new targeted plan for healthcare facility inspections. The announcement comes after preliminary results of a recent inspection at a nursing home in Kirkland, WA, the epicenter of the outbreak in the state. The new focused inspection process will be used nationally and includes existing components of CMS’ infection control inspection but adds actions to target and assess if facilities are prepared to meet CMS’ expectations for preventing the spread of COVID-19, specifically in those areas where the virus is likely to strike next. It also includes a self-assessment tool for providers, particularly those who are not initially inspected. CMS is encouraging all nursing homes to begin using the tool immediately to prevent the spread of COVID-19. Find out more about the new inspection process [here](#).

### *Inspection at Kirkland facility inform Agency’s move to further focused inspection process*

Today, the Centers for Medicare & Medicaid Services (CMS) is announcing the preliminary results of a recent inspection of the Life Care Center nursing home in Kirkland, Washington – the epicenter of the 2019 Novel Coronavirus (COVID-19) outbreak in that state. The inspection, which the Agency conducted with the Washington Department of Social & Health Services, has helped inform CMS’s national strategy for keeping patients safe in nursing homes and other healthcare facilities. In keeping with the Trump Administration’s aggressive moves to combat further spread of COVID-19, CMS is also utilizing flexibilities allowed by President Trump’s Emergency Declaration to announce an enhanced, focused inspection process, informed in part by the Agency’s experiences on the ground in Kirkland, and close coordination and input from the Centers for Disease

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Control and Prevention (CDC). This focused inspection process will be provided to all inspectors and facilities, and used on a national scale. Critically, this focused inspection process includes a self-assessment tool for providers to employ.

“The Trump Administration is keeping Americans safe by conducting thorough, yet targeted, inspections throughout the healthcare system, particularly in nursing homes, whose residents are more susceptible to dangerous complications from the virus,” said CMS Administrator Seema Verma. “But patient safety starts with the front line healthcare provider, so we’ve developed a self-assessment tool in coordination with the CDC. Today, we’re issuing a call to action to nursing homes, hospitals, and the entire healthcare system: Don’t wait to be inspected. Starting today, you can – and should – use CMS’s self-assessment tool to ensure you’re prepared to prevent the spread of Coronavirus.”

This new focused inspection process includes existing components of CMS’s infection control inspection process, but adds actions based on the latest guidance from the CDC and CMS. CMS and state inspectors will use this new process to target and assess if certain facilities are prepared to meet CMS’s expectations for preventing the spread of COVID-19. When gaps are identified, facilities will be required to take corrective actions to close the gaps. For those facilities that aren’t initially inspected, CMS urges them to use this as a tool to self-assess their own ability to prevent the spread of COVID-19. CMS also encourages residents and families to join the Agency in being proactive about nursing home safety. Residents and families should ask facility staff how the facility performed on its self-assessment.

COVID-19 has already begun to hit our most vulnerable citizens hard. On March 16, 2020, CMS and the Washington Department of Social & Health Services State Survey Agency concluded an inspection of the nursing home facility at the epicenter of the COVID-19 situation in Washington. Two federal surveyors conducted the onsite inspection, including observations of patient care, while Washington State staff assisted offsite by reviewing documents. The inspectors found three “Immediate Jeopardy” situations, which are situations in which a patient’s safety is placed in imminent danger. Specifically, the facility’s failure to rapidly identify and manage ill residents, notify the Washington Department of Health about the increasing rate of respiratory infection among residents, and failure to possess a sufficient backup plan following the absence of the facility’s primary clinician, who fell ill.

“The coronavirus outbreak at Life Care was an unprecedented situation for the state of Washington,” said Washington Department of Social & Health Services Secretary Cheryl Strange. “We have worked closely with our federal partners over the last several weeks to determine what led to the outbreak there and what contributed to its spread throughout the facility. We have learned valuable lessons. We are applying these lessons daily in our efforts to prepare long term care facilities throughout the state for the potential of COVID-19. Our regulatory teams are highly focused on visiting all nursing homes in Washington state to ensure those who care for some of our most vulnerable citizens are practicing proper infection control.”

The Washington nursing home is far from the only nursing home affected by COVID-19. According to CDC data shared with CMS, 147 nursing homes across 27 states have at least one resident with COVID-19. Although 147 is a small fraction of the over 15,000 nursing homes across the country, given the disproportionate effect on our nation’s older population, this is a cause for concern. Therefore, CMS and CDC are collaborating in real-time about nursing homes with active cases of COVID-19 and CMS is using this information to identify areas the virus is likely to strike next, and target inspections accordingly.

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This targeting will be in full effect beginning immediately. This announcement builds on previous CMS guidance issued on March 4, 2020, which directed statutorily required inspections to focus on infection control and Immediate Jeopardy. CMS is now temporarily postponing routine inspections, to focus solely on infection control and Immediate Jeopardy. This action ensures that all CMS resources are focused on combatting COVID-19 and allows clinicians to do the same, focus on patient safety, not routine paperwork.

In this effort, CMS is not seeking to be punitive, but rather to respond to urgent issues while proactively ensuring providers are compliant with federal health and safety standards.

Under CMS' focused survey process, **only** the following types of federal inspections will be prioritized and conducted over the next few weeks:

- **Complaint inspections:** State survey agencies will continue to conduct inspections related to complaints and facility-reported incidents that are triaged at the Immediate Jeopardy level. Inspectors will use a streamlined Infection Control review tool, regardless of the Immediate Jeopardy allegation.
- **Targeted Infection Control inspections:** Federal and state inspectors will conduct targeted infection control inspections of providers identified through CMS collaboration with the Centers for Disease Control and Prevention (CDC). These inspectors will use a streamlined targeted review checklist to minimize the impact on provider activities, while ensuring providers are implementing actions to protect health and safety. This will consist of both onsite and offsite inspections.
- **Self-Assessments:** The Infection Control checklist referenced above will also be shared with providers and suppliers, to allow for self-assessment of their Infection Control plans. This may be the best solution in some cases when there is a lack of personal protective equipment or state surveyors available.

During this time frame, the following inspections will not be conducted:

- Standard inspections for nursing homes, hospitals, home health agencies, intermediate care facilities for individuals with intellectual disabilities, and hospices; and
- Revisit inspections not associated with Immediate Jeopardy.

During this time, CMS will prioritize Immediate Jeopardy investigations over recertification surveys for Clinical Laboratory Improvement Amendment (CLIA) laboratories. CMS will use enforcement discretion, unless Immediate Jeopardy situations arise. Finally, initial inspections will be conducted in accordance with current guidance and prioritization.

The new focused inspection tool for inspectors – one for long-term care and one for other providers – operationalize the latest guidance from CMS and CDC to control and prevent the transmission of the virus. During the three-week period during which inspectors will conduct only the immediate jeopardy inspections, CMS will work with providers and inspectors to provide additional training related to infection control.

Today's action from CMS builds on the White House Coronavirus Task Force's efforts to give front line providers guidance on how to protect patients by preventing spread of COVID-19. This direction applies to inspections of all Medicare and Medicaid certified provider and supplier types across the country, including nursing homes, hospitals, and laboratories under CLIA. CMS will continue to evaluate the survey prioritization as this situation

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evolves, and will provide additional guidance as needed. CMS continues to work with providers and clinicians to ensure they have all the information and tools they need to keep their patients and residents safe.

For access to the focused surveys that your facilities will need, [CLICK HERE](#).



## Providers praise move by CMS to suspend standard surveys for nursing homes for 3 weeks; inspection finds fault with Washington facility's response

Written by: Liza Berger & Danielle Brown

Long-term care providers on Monday said they appreciate a decision by the Centers for Medicare & Medicaid Services to limit surveys of nursing homes and other providers for a three-week period in the wake of the coronavirus public health crisis.

In a new [memo](#), CMS said that it will conduct the following surveys over the next three weeks:

- Complaint/facility-reported incident surveys involving Immediate Jeopardy
- Targeted infection control surveys
- Self-assessments

All of the above will include intensified scrutiny of infection control practices in light of rising fears over the spread of the novel coronavirus.

“We commend [CMS' decision today](#) to limit surveys for a three-week period in a redoubling of efforts to prevent and contain coronavirus spread within nursing homes,” said Katie Smith Sloan, president and CEO of LeadingAge, which represents nonprofit providers. “This is urgent — an all-hands-on-deck moment. CMS is a partner in helping us to curb the spread of this deadly scourge.”

The American Health Care Association said it's reviewing the full memo.

“Our members appreciate the opportunity to focus all of their energy and resources on preventing the spread of COVID-19. We want to emphasize that surveyors should not perform an onsite survey and refrain from entering the building if there is a lack of appropriate PPE supplies,” the association told *McKnight's* Monday.

CMS said that it will not conduct the following surveys over the next three weeks:

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- Standard surveys for nursing homes, hospitals, home health agencies, intermediate care facilities for individuals with intellectual disabilities, and hospices.
- For Clinical Laboratory Improvement Amendments (CLIA), it intends to prioritize immediate jeopardy situations over recertification surveys, and generally intends to use enforcement discretion, unless immediate jeopardy situations arise.
- Initial certification surveys will continue to be authorized in accordance with current guidance and prioritization.

CMS noted that the president declared a national emergency on March 13, which triggers the Department of Health and Human Services secretary's ability to authorize waivers or modifications of certain requirements pursuant to section 1135 of the Social Security Act.

"Under section 1135(b)(5) of the Act, CMS is prioritizing surveys by authorizing modification of timetables and deadlines for the performance of certain required activities, delaying revisit surveys, and generally exercising enforcement discretion for three weeks," CMS wrote.

## **Inspection: Washington SNF didn't act fast enough**

The updated guidance comes on the heels of a preliminary inspection that found that Life Care Center of Kirkland in Washington state acted slowly in response to the coronavirus outbreak. Kirkland was the first site of an outbreak in the U.S.

The investigation concluded that the facility didn't act quickly enough to identify and manage ill residents, notify the state's health department about the increasing rate of respiratory infections among residents and didn't have a "sufficient backup plan" after its primary clinician became ill.

More than 80 residents, 34 staff members and 14 visitors have tested positive for COVID-19, according to the report. Twenty-six people have died.

Overall, 147 nursing homes across 27 states have at least one resident with COVID-19, according to data from the Centers for Disease Control and Prevention.

"The coronavirus outbreak at Life Care was an unprecedented situation for the state of Washington," Washington Department of Social & Health Services Secretary Cheryl Strange said in a statement. "We have learned valuable lessons. We are applying these lessons daily in our efforts to prepare long term care facilities throughout the state for the potential of COVID-19."

In a call Monday morning, CMS Administrator Seema Verma said the agency used its experiences and lessons in Kirkland to learn about the coronavirus and develop the new inspection approach.

"But beginning [Monday], for at least the next three weeks, we will work with the CDC to identify areas the virus is projected to strike next, and target our inspections accordingly. This will allow us to focus inspections on the most urgent situations, so we're getting the information we need to ensure safety, while not getting in the way of patient care," Verma said.

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## In other coronavirus-related news:

As of Monday, there were a total of 33,404 cases of COVID-19 in the United States and a total of 400 deaths, according to the Centers for Disease Control and Prevention.

CMS announced Monday night that 11 more states had been approved for Medicaid Section 1135 waivers, bringing the total to 13. The waivers allow states extra flexibility in dealing with COVID-19 complications.



## AHCA guidance: How to decide who can and can't enter your building amid coronavirus outbreak

Written by: Danielle Brown

The American Health Care Association [recently issued guidance](#) on the decision-making behind deciding who — from employees to outside contractors like therapy, pharmacy and mental health providers — should enter long-term care facilities.

“This decision needs to be balanced with meeting the needs of the resident. The risk-benefit trade off needs to be made on a case-by-case basis and should be informed by the high mortality associated with contracting this virus in the elderly,” the association wrote. “This decision process should also be evaluated and adjusted as necessary as the COVID-19 situation evolves in your local community and building.”

The guidance also discussed how to manage various duties amid the visitor restrictions. The association noted that some duties that are usually designated for direct-care staff can be shifted to non-direct care staff. For example, some duties for nurses and nurse aides, like performing and documenting routine vital signs, can be supported by physical and occupational therapy and speech-language pathology staff.

“This decision needs to be balanced with meeting the needs of the resident. The risk-benefit trade off needs to be made on a case-by-case basis and should be informed by the high mortality associated with contracting this virus in the elderly,” the AHCA wrote.

It also noted that some duties can be stopped or reduced.

“COVID-19 has interrupted usual daily operations in all long term care facilities. This means some direct or non-direct care staff usual duties are on hold or not urgent during this pandemic. Thus, there is opportunity to engage those staff in supporting activities that must continue despite the pandemic disruptions,” the association added.