

# COVID-19 Weekly Industry Updates

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## CMS expected to order COVID-19 reporting; nursing home deaths surpass 3,600

Written by: Danielle Brown

4/14/2020

The Trump administration could soon require nursing homes to report all confirmed coronavirus cases to residents, their families and staff members.

The Centers for Medicare & Medicaid Services could announce the move this week, the Wall Street Journal reported. It wasn't clear if the government plans to gather and release nursing home data on the coronavirus' impact in facilities, the report noted.

The reported recommendation comes after both major nursing home associations called for providers to report all COVID-19-positive cases to state survey agencies and local health departments — as well as residents, families and staff members.

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Both the American Health Care Association and LeadingAge [stressed the importance of better communication](#) about the disease with families.

“We encourage this information be shared with CMS, CDC and FEMA. We believe this information can help identify long term care providers who are most in need of testing and PPE resources,” AHCA President and CEO Mark Parkinson said in a statement.

“We fully expect that consistent reporting of cases will lead to adequate and timely access to PPE and testing,” LeadingAge President and CEO Katie Smith Sloan added. “Additionally, because COVID-19 impacts the people we serve, it is crucial that our members maintain transparent communication about positive cases with staff, residents, and families.”

During a Coronavirus Daily Update call Monday, Ruth Katz of LeadingAge emphasized the importance of reporting cases. “Reporting cases is the very best way to get the data we need” to rally support for more materials, funding and regulatory relief, she said.

“We’re living in a system within a system that should support us but is failing us,” Smith Sloan added during the call. “So please know what we are advocating consistently for supplies, priority status, relief and a much better understanding of all that you have done, and continue to do to create healthy environments.”

## **A message to stay positive**

Also during the call, Smith Sloan told providers to not let negative media reports discourage them.

“As you read the paper and watch the news, you are more than aware ... that nursing homes have become a punching bag,” she said. “There are subtle and not-so-subtle suggestions that we are the problem and nursing homes don’t know what we’re doing. They are untrue, unfair and dismissive of your hard work.”

In other coronavirus-related news:

- Deaths in nursing homes connected to COVID-19 have surpassed 3,600, according to an Associated Press [report](#). That’s a sharp increase from the just 450 deaths reported less than two weeks ago.

Some believe deaths may continue to rise in nursing homes due to shortages among staff members, personal protective equipment and available testing. Testing could become more available for providers, according to Deborah Birx, M.D., who’s a part of the White House Coronavirus Task Force.

“We need to really ensure that nursing homes have sentinel surveillance. And what do I mean by that? That we’re actively testing in nursing homes, both the residents and the workers, at all times,” Birx said.

- And as if you didn’t need any reminders about how unique our current living conditions are: [All 50 U.S. states](#) are under disaster declaration for the first time in history.

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- In brighter news, an engineering student is [using 3D printing to create and distribute medical face shields](#) and headbands to at least a dozen nursing homes and other facilities in the New York and New Jersey areas.



## 2019 Novel Coronavirus (COVID-19) Long-Term Care Facility (LTC) Transfer Scenarios

Published by CMS Guidance

4/14/2020

CMS is providing supplemental information for transferring or discharging residents between skilled nursing facilities (SNFs) and/or nursing facilities based on COVID-19 status (i.e., positive, negative, unknown/under observation). In general, if two or more certified LTC facilities want to transfer or discharge residents between themselves for the purposes of cohorting, they do not need any additional approval to do so. However, if a certified LTC facility would like to transfer or discharge residents to a non-certified location for the purposes of cohorting, they need approval from the State Survey Agency.

A copy of the guidance and a graphic explaining the various scenarios can be found [here](#).

**McKnight's**  
LONG-TERM CARE NEWS

## Providers Urged to Fight COVID-19 Lawsuits by Documenting 'Everything'

Written by: Danielle Brown

4/15/2020

A legal expert is urging providers to document everything related to their response to the coronavirus pandemic. It's a move that could help providers defend themselves in a potential lawsuit stemming from their response.

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“Documentation is critical. Document, document, document your efforts,” Christy Tosh Crider, chair of Baker Donelson’s Health Care Litigation Group and the Women’s Initiative, said Tuesday. She issued the warning during a webinar hosted by the Society for Healthcare Organization Purchasing Professionals (SHOPP).

Many providers may be subject to lawsuits in the coming months due to unfortunate patient outcomes from the new coronavirus, she warned, adding that procurement officers may become “critical witnesses” in such litigation. In fact, the [first known lawsuit](#) filed against the site of the first known U.S. outbreak, in Kirkland, WA, was filed Friday.

In addition, the Florida Health Care Association came under fire over the weekend, when a [USA Today article](#) noted that the group had written the governor to ask for blanket immunity for healthcare providers from COVID-related lawsuits.

Tosh Crider said the focus of future lawsuits likely will involve staff members who have tested positive for the disease returning to work; struggles to get personal protective equipment; and staff training on how to effectively use personal protective equipment.

“What’s unfortunate is that you’re going to be judged against a standard six months from now that is not the standard today and wasn’t the standard yesterday, or last week,” she said.

“You need to be documenting as each new piece of guidance comes out. As you and your organization respond to that new piece of guidance, document what you knew, when you knew it and what your response was,” she urged.

For procurement officers at the corporate level, she warned that they should be documenting all of their decision-making and struggles regarding PPE.

“Every piece of that you should treat as if it will have to be turned over some day in litigation. Treat your documentation as if I’m going to have to deal with it during an opening statement to a jury,” Crider said.

“Treat it as if you’re going to have to turn it over to a regulatory body, and ask yourself is this communication sending the right message about our organization’s commitment to put proper PPE in place for the protection of our residents and the protection of our frontline caregivers,” she added.

## **Next round of stimulus funding not expected this week**

Medicaid and Medicare Advantage providers, along with coronavirus hotspots, will be the focus of the next round of stimulus funding, according to Clif Porter, senior vice president of government affairs for the American Health Care Association.

Porter noted that the first \$30 billion of the \$100 billion health fund included in the stimulus package that was released Friday focused on Medicare fee-for-service providers.

“The second round is pending and that will likely be issued in the early part of next week,” Porter explained.

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“I think it’s clear, at least to the skilled nursing sector, that this round at least intuitively should be a significant and a meaningful round of stimulus because the majority of our revenues, as you know, is from Medicaid,” he added.

He also noted that the third round of stimulus funding would address assisted living and any other gaps that were missed in the first two tranches.



## CMS Doubles Payment Rate for COVID-19 Tests to Expand Nursing Home Access — as Verma Blames Labs for Shortfalls

Written by: Maggie Flynn

4/15/2020

The Centers for Medicare & Medicaid Services (CMS) will increase its reimbursements for high-volume lab tests used to rapidly diagnose COVID-19 cases as part of the federal government’s push to expand testing access — particularly among the vulnerable skilled nursing population, the agency announced Wednesday.

The reimbursement for COVID-19 diagnostic lab tests that use certain higher-capacity methods will jump to \$100, effective April 14. Prior to Wednesday’s action, the rate was \$51.

In terms of how this will benefit nursing homes, which are short on [COVID-19 testing](#) even as the number of coronavirus deaths in nursing homes [climbs into the thousands](#), CMS administrator Seema Verma emphasized that the reimbursement increase had to be taken in tandem with CMS’s earlier announcement of [expanded coverage for COVID-19](#) tests taken from a nursing home.

“What we have seen is that there are a lot of labs just not performing these tests,” Verma said on a press call held Wednesday afternoon. “And we recognize that there may have been some issues with reimbursement. We’ve had conversations with the labs, and there’s a lot that’s involved in running these high-throughput tests, and that’s why we’re increasing the reimbursement.”

According to the [ruling from CMS](#), the higher amount is a more accurate payment than the one currently set by Medicare Administrative Contractors (MACs) because of the greater resources and training necessary to complete the higher-speed tests.

This type of technology uses a platform that employs automated processing to test approximately 200 specimens a day, and it requires more intensive technician training and more time-consuming processes, according to the government.

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The new codes should not be used for tests that detect COVID-19 antibodies, the agency noted.

The payment for all other clinical diagnostic laboratory tests will stay at the current level, and MACs should “engage in whatever processes are necessary to make determinations or policies to process claims,” CMS said in the ruling.

This should increase testing capacity across the country, according to Verma, beyond just nursing homes. In addition, CMS is asking state and local officials to work with the high-throughput labs to provide more testing in communities, she said.

The expanded coverage for collecting samples for testing in nursing homes, in tandem with the new high-throughput testing reimbursement, should help bolster testing overall in the SNF setting, Verma said.

The [shortage of tests for patients and staffers in the long-term care setting](#) has become a major factor in the surge of cases; federal guidance [requires SNFs to cohort COVID-19 patients in separate wings or units](#), but that kind of separation is not possible without knowing which patients have COVID-19.

Complicating the issue is the fact that many of those infected with COVID-19 [can have the virus without showing symptoms](#). In fact, in Massachusetts, officials had to halt a plan convert existing SNFs to COVID-19 facilities through strategic transfers when test results revealed significant numbers of positive tests. The Bay State ended up having to focus instead on reopening temporarily closed facilities.

Verma noted the importance of expanded testing as SNFs work to effectively keep COVID-19 patients separate from those without the virus.

“We feel like that’s so important to decreasing the numbers, decreasing the spread,” she said Wednesday. “The testing piece really goes hand-in-hand with our recommendations around isolation, and around our recommendations and flexibility that we’ve been giving to nursing homes to provide that care even outside their facility.”



## Pandemic Putting Pressure on Seniors Housing: Marcus & Millichap

Written by: Amy Novotney

4/14/2020

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The senior living industry may be one of the hardest hit by the coronavirus pandemic, yet with operators well suited to manage infectious diseases, and the strength of the seniors housing market before the virus, the industry has continued to maintain operations despite numerous COVID-19 challenges, according to a report released last week by Marcus & Millichap.

Independent living communities may be the least exposed to disruption, the authors said, because their residents tend to be younger and require less help. Overbuilding continues to be a concern for this sector, however, and likely will lead to delays on many construction projects until next year.

Assisted living environments have suffered several coronavirus outbreaks, increasing costs for labor and supplies, the report noted. Construction delays, however, could keep occupancies high and demand strong for existing communities.

Memory care communities face challenges in keeping residents safe from COVID-19 but may be best positioned to withstand an economic downturn, due to the specialized care they offer, according to the report. In the near term, however, occupancy could decline as the pace of tours and move-ins slows.

Skilled nursing facilities have experienced increasing infections and shortages of personal protective equipment, as well as the challenge of housing residents and patients who need around-the-clock medical care. Greater equipment and infrastructure, however, are helping skilled nursing stay better prepared during the COVID-19 pandemic than other senior housing and care types. The report authors said they believe nursing homes will see higher occupancy near term.

In the end, the authors note, strong investor sentiment likely will help the sector survive pandemic-related challenges.

“Sales volume over the previous 12-month period was up 18 percent from the prior stretch, lifted by healthy investor perceptions and attractive acquisition targets,” the report said. “REITs are eyeing new construction as large portfolio deals have slowed in the market, while private buyers now comprise a greater share of deal flow.”



## Survey Finds – Surprise – PPE is in Short Supply

Written by: John O'Connor

4/16/2020

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If personal protective equipment is in short supply at your community, you're hardly alone. At least, that's what new findings by Premier strongly suggest.

The supplier's survey of nearly 2,500 skilled nursing and assisted living facilities found that nearly one-in-four communities (24%) do not have any N95 masks available. Moreover, most respondents have less than two weeks' supply of surgical masks, isolation gowns or face shields in stock.

Other items in short supply included thermometers, exam gloves, alcohol pads, soaps/detergents and hand sanitizers. Ninety-six percent of the respondents have begun implementing PPE conservation strategies.

In addition, 70% of the respondents indicated they are not fully prepared to treat an increasing number of COVID-19 cases as the virus surges. Furthermore, 48% of respondents say they are experiencing staff-attendance challenges.

In Related News:

## **Pandemic likely to increase demand for affordable housing: NIC**

As the unfolding COVID-19 pandemic ravages the nation's economy, the ranks of seniors requiring affordable housing and care will escalate, [warns a recent](#) National Investment Center for Seniors Housing & Care-sponsored blog.

NIC last year identified this cohort as vulnerable in ["The Forgotten Middle: Middle Market Seniors Housing Study."](#)

That investigation found that 54% of seniors already cannot afford today's senior housing product, based on a monthly cost of \$4,500. Nor do they qualify for assistance under the Medicaid program.

"Given the COVID-19 pandemic, the need for housing and care for the 'Forgotten Middle' is only going to get bigger," said NIC Chief Economist Beth Mace.

She said it's very possible more seniors will draw down savings and join the ranks of those unable to afford needed housing. At the same time, more of today's middle-income seniors could fall into the low-income category of seniors dependent on Medicaid, putting more strain on an already overstretched program, she added.

## **Seniors more prepared for pandemic, but also more lonely**

How are seniors nationwide faring one month into social distancing? The results paint a mixed picture, according to a survey by TheSeniorList.

On the plus side, seniors are feeling better prepared to deal with the pandemic. In fact, nearly half of those questioned (49%) feel extremely or very prepared for extended stay-at-home orders. For non-seniors, the total was substantially lower, 36%.



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But 40% of the responding seniors also report feeling they are feeling lonelier since the COVID-19 pandemic forced sheltering in place. Pre-pandemic, only 10% indicated the same. In addition, only 11 % of seniors are interacting with those outside their household multiple times per day — compared to 37% earlier. Full results are [available here](#).

## **Senior living employers get a chance to turn the tables**

For years, senior living operators could do little more than watch as food service outlets lured away frontline staff. But as it has done elsewhere, COVID-19 is reversing this reality.

As restaurants nationwide suddenly limit or curtail operations, they are being forced to let workers go. Many of the newly unemployed are ideal candidates for positions in eldercare. Not surprisingly, senior living is pouncing on the opportunity. Virtually every operator is in a position to offer steady full-time or part-time shifts, promotions and career paths.

Better still, the Centers for Medicare & Medicaid Services announced it is relaxing licensure requirements for certified nurse assistants as the pandemic continues.

By all indications, the pool of possible senior living applicants is increasing daily. More than 6.5 million workers filed for unemployment in the past two weeks. The number is projected to grow as the pandemic continues. And the timing could hardly be better. Direct care workforce needs for long-term care are projected to grow by more than 1.3 million people by 2028, according to PHI.

So it's not hard to see why many former foodservice employees will likely be working for senior living firms in the months to come, experts say.