# COVID-19 Weekly Industry Updates

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McKnight's
LONG-TERM CARE NEWS

## CMS to Use Staffing Data to Assess PPE Needs; Freezes Star Ratings

**With the announcement that CMS will tally each facility's staff in order to assess the need for personal protective equipment needs, there are going to be changes in distribution of supplies in the hopes of providing the equipment to those most in need. CMS has also said that the STAR ratings system will be paused indefinitely to maintain and hold constant the health inspection domain of the rating system.**

Written by: Danielle Brown

4/27/2020

Providers' staffing totals will be used to address their personal protective equipment needs during the coronavirus pandemic, according to a new memo from the Centers for Medicare & Medicaid Services. In addition money collected from fines will pay for tools that will help residents communicate with their families during the pandemic lockdown.

CMS announced the moves late Friday afternoon, explaining that it will be publishing a list of the average number of staff members onsite at facilities each day. The information will be used to direct adequate PPE and testing to nursing homes.


The agency also is now waiving timeframe requirements for submitting resident assessment data (Minimum Data Set) and staff data (Payroll-Based Journal) by certain deadlines. The waivers won't impact the updates to the quality measures and staffing domains being used for the April update on the rating system, which is set for Wednesday.

LeadingAge President and CEO Katie Smith Sloan said in a statement that the organization was "pleased" with the move. The organization added that it's still seeking additional clarification from CMS on clinical and financial operations regarding 1135 waivers, however.

"We are encouraged by the mention about using PBJ data to determine PPE needs. We hope this results in appropriate amounts of PPE for nursing homes who need it urgently," Smith Sloan said.

"Additionally, we are pleased that CMP funds can now be used to purchase equipment that can help residents communicate with family members during this time of isolation," she said.

**Star ratings freeze**

The CMS memo also announced a freeze to nursing homes' current overall star ratings on the Nursing Home Compare website following the suspension of certain survey inspections during the coronavirus pandemic. In late March, the agency announced that it would suspend standards surveys for nursing homes and prioritize inspections regarding Immediate Jeopardy, infection control and self-assessments.

In Friday's memo, the agency said the targeted inspection plan resulted in a great shift in the number of nursing homes inspected and how they're conducted.

"This would disrupt the inspection domain of the Nursing Home Five Star Quality Rating System because many nursing homes that would normally be inspected, will not, thereby over-weighting and impacting the ratings of those facilities that are inspected. This could then potentially mislead consumers. Therefore, we will temporarily maintain and hold constant the health inspection domain of the rating system," the memo stated.

CMS added that results of health inspections conducted on or after March 4, 2020, will still be posted publicly but not be used to calculate a nursing home's health inspection star ratings. The memo also answered several

frequently asked questions related to the agency's actions regarding visitation, surveys, waivers and other guidance.

McKnight's SENIOR LIVING
News, perspective and analysis

## Operators Have 'Heavy Lifting' to do to Regain Consumer Confidence in Wake of Pandemic, Experts Say

**Senior living communities with have to overcome multiple hurdles to maintain their standards and see growth. In light of the spread of the COVID-19 virus, many seniors will find reasons to stay at home without the benefits and structures of community living which may lead to decline in overall health at a faster rate. Statistics are already adjusting to recent changes in our "new normal" way of life.**

Written by: Kimberly Bonvissuto

4/24/2020

The COVID-19 pandemic has created challenges and shaken consumer confidence in the senior living industry. Operators will need to do some "heavy lifting" in its wake, according to Missouri-based GlynnDevins.

But research results from the marketing company, based on surveys of senior living leaders and consumers, reveal glimmers of hope among industry uncertainties.

GlynnDevins Chief Customer Officer Susan Bogan said senior living operators should look at the COVID-19 situation as a marathon, not a sprint, and that communities need to prepare and "lean in" to keep driving success.

Key takeaways from the company's research, shared in a Thursday webinar, show that senior living communities are still open for business and accepting move-ins. Bryan Herrman, senior vice president of insights and strategy, said occupancy expectations remain relatively positive, with 83% of independent living communities still accepting move-ins, compared with 69% of assisted living / memory care communities.

Data also revealed that communities are challenged by technology. Although communities shifted to alternative communication methods out of necessity, more than one-third of respondents reported struggles with staff, resident and prospective resident buy-in. On the flip side, those older adults who embrace technology see it as a way to stay in their homes.

Senior Vice President of Strategic Partnerships Lisa Legeer said communities need to sell not just the safety aspects of the senior living environment, but also the benefits of living in a community, such as the ability for basic needs to be met for seniors whose children don't live nearby.

Citing trend information from National Investment Center for Seniors Housing & Care surveys of executives, GlynnDevins executives said the industry is showing continued declines in occupancy based less on admission bans and more on resident or family concerns about senior living.

"Home is still the biggest competitor for senior living communities," Legeer said. "What we've seen through COVID-19 is an additional layover of disruption.

Overall, confidence ratings are very low, and the number of older adults considering senior living is down. Herrman said the data show the older the consumer, the lower the sentiment and confidence.

Some sobering numbers:

- 46% of older adults are less likely to consider moving to an independent living community, compared with 51% less likely to consider assisted living / memory care.
- 53% of family members are less likely to move a loved one into independent living, compared with 57% considering assisted living / memory care for a loved one.
- 45% of consumers believe independent living communities are less safe than home during a health crisis, compared with 50% who believe assisted living / memory care communities are less safe.
- There are regional differences in sentiment and confidence. The Northeast generally is higher on those points, whereas the West and Midwest are trending lower.

"What this tells us is the industry has some heavy lifting to do for the future," Herrman said, adding that it's a time to rebuild trust, sentiment and confidence. "It will take a significant effort across all levels of care, age segments and regions."

In the midst of this crisis of confidence, communities need to adopt different messaging and use different mediums to communicate their stories. Treating prospective residents like a check-in, rather than a sales call, goes a long way in building relationships, Herrman said.

"Nurture relationships with your current leads. You are still making sales and moving in residents, particularly in independent living," Legeer said. "Focus on the people already in the database. Be diligent about engaging with them and families with content that is relevant and creates a more personalized connection."

Bogan said communities need to build a consumer-centric program that meets consumers where they are. Using marketing and sales programs from three years, three months or even three weeks ago is not working today. She said it comes down to delivering a continuous experience across multiple platforms and interactions.

Legeer recommended that leadership conduct a technology audit and understand the tools that marketing teams need to be successful, use data to drive decisions in real time, and be prepared for a crisis that continues unfolding.

“Communities that are continuing to innovate and evolve will come out of this crisis stronger and more successful than those that don’t,” Legeer said.

## Skilled Nursing News

### CMS Releases Nursing Home Staffing, Census Data to Help States Make PPE and Testing Decisions

**The decision to use staffing counts in order to distribute appropriate amounts of equipment for facility employees is mostly being confirmed as the correct decision by those running the nation’s skilled nursing facilities. Furthermore, operators are now allowed to use civil monetary penalty (CMP) funds to purchase communication devices to help residents stay in touch with their families.**

Written by: Alex Spanko

4/24/2020

The Centers for Medicare & Medicaid Services (CMS) on Friday released a public database of staffing and resident counts for nearly 15,000 nursing homes, with the goal of potentially helping states make more informed decisions about the distribution of personal protective equipment (PPE) amid the COVID-19 pandemic.

Using fourth-quarter 2019 data from the Payroll-Based Journal (PBJ) system, CMS compiled a spreadsheet that includes a variety of staffing information about each facility, including average daily nursing headcount, average daily overall staffing totals, the number of certified beds, and the average resident census.

“We believe this information can be used to identify approximate facility needs, and help support local, state, and federal agencies’ response to preventing and controlling the transmission of COVID-19,” CMS official David Wright wrote in a Friday memo to State Survey Agency (SSA) directors. “For example, this could be used to help state agencies where, and how much, personal protective equipment (PPE) and testing should be directed within their state.”

Wright also noted that the data may not necessarily reflect the current situation in nursing homes, particularly given the upheaval of COVID-19.

Census information has always been available on the consumer-facing Nursing Home Compare website, Wright noted, but Friday’s release marks the first time that data on individual facility staff levels has been made public.

On average, the nation's nursing homes have 41 nursing employees and 60 total workers on site every day, with a daily census of 87 residents — against a total of 107 beds.

"This action bolsters CMS's response to COVID-19 and reinforces our commitment to transparency," Wright noted.

LeadingAge, an organization that represents non-profit senior living and care operators across the country, praised CMS's decision.

"We are encouraged by the mention about using PBJ data to determine PPE needs," LeadingAge president and CEO Katie Smith Sloan said in a statement. "We hope this results in appropriate amounts of PPE for nursing homes who need it urgently."

The updated memo also clarified that operators are allowed to use civil monetary penalty (CMP) funds to purchase communication devices — such as tablets and webcams — that residents can use to stay in touch with their families.

CMS additionally noted that while the federal government will on April 29 begin posting the results of inspections conducted after the agency suspended non-emergency surveys last month, those results will not affect buildings' individual star ratings.

"Due to the March 23rd targeted inspection plan, there is a great shift in the number of nursing homes inspected, and how the inspections are conducted," Wright wrote. "This would disrupt the inspection domain of the Nursing Home Five Star Quality Rating System because many nursing homes that would normally be inspected, will not, thereby over-weighting and impacting the ratings of those facilities that are inspected. This could then potentially mislead consumers."

## Skilled Nursing News

### Therapists Find Some COVID-19 Telehealth Opportunities — But Remain Off Medicare List

**Through the crisis created by the spread of the COVID-19 virus, several kinds of practitioners are able to grant their services to seniors in the skilled nursing setting, but therapists like rehab therapists, physical therapists, occupational and speech therapists, are not included on that statutory list. This is presenting a problem for many seniors that rely on these services.**

Written by: Maggie Flynn

4/24/2020

The federal government has waived multiple regulations around telehealth with an eye toward making it as easy as possible to stay home and receive medical care.

It's a move that seems well-suited to benefit the Medicare beneficiaries living in skilled nursing facilities across the U.S., who need care while minimizing contact with visitors during the COVID-19 pandemic.

But therapists — who provide essential services to patients in the SNF setting — are not currently on the statutory list of eligible providers, or "distant site practitioners," as designated under fee-for-service Medicare, Cynthia Morton, the executive vice president of the National Association for the Support of Long-Term Care, said on a Thursday webinar hosted by Skilled Nursing News.

The list of eligible practitioners includes:

- Physicians
- Nurse practitioners
- Physician assistants
- Nurse-midwives
- Clinical nurse specialists
- Certified registered nurse anesthetists
- Clinical social workers
- Registered dietitians or nutrition professionals

"This list is set in statute," Morton said on the webinar. "And you'll note there that the rehab therapists, the physical therapists, the occupational and speech therapists, they are not included on that statutory list. We sure would like them to be."

The waivers have made some difference; telehealth was originally only intended to provide care to those living in rural areas, she noted.

But with the COVID-19 pandemic upending life across America, the Centers for Medicare & Medicaid Services (CMS) issued a wide set of waivers at the end of March "essentially eliminating all barriers and adding services in other sites of care to the telehealth list," according to a statement from AMDA, the Society for Post-Acute and Long-Term Care Medicine. The waivers allowed providers to perform initial and discharge services remotely, and removed a requirement that telehealth visits in the SNF setting take place only every 30 days.

Under the waiver from CMS, any nursing facility can use telehealth, and some of the restrictions around the type of technology involved have been lifted.

Rehab therapists are still not authorized to provide services through telehealth, even under the waivers. That said, some Medicare Advantage plans and commercial plans have allowed it — just not original Medicare, Morton noted.

But even with the billing challenges, Key Rehab, which is based in Murfreesboro, Tenn., has been able to utilize telehealth for physical therapy, occupational therapy, and speech therapy.

"It's not something that we're able to bill for, but we do it as consultation and training," Michael Gorman, Key's senior vice president of clinical and regulatory affairs said.

For instance, a clinician looking for extra training is partnered with a more experienced practitioner for a session, and the technology allows the mentoring therapist to watch the session with the patient and give suggestions, Gorman said.

Some states do allow for physical, occupational, and speech therapy to be done via telehealth, so Key has established "non-billable telehealth" in some areas. As an example, some states that have strict supervisory visit requirements allow those visits to be done via telehealth, so Key was practicing this even before the COVID-19 pandemic.

It was also using an encrypted platform that was compliant with the standards of the Health Insurance Portability and Accountability Act (HIPAA), Gorman noted, since prior to the waivers from CMS, technologies such as FaceTime or Skype wouldn't have been compliant.

**Telecommunications vs. telehealth**

Morton also broke down a difference between telehealth and "services furnished via telecommunications technology, [that] are not considered Medicare telehealth services," or communication technology-based services (CTBS) in CMS's terms.

This includes remote patient monitoring, interpretations of diagnostic tests when furnished remotely, virtual check-ins, e-visits, and telephone assessment and management. CMS has said that therapists are allowed to do virtual check-ins and e-visits, Morton said, but how these could be done in the institutional setting is not clear.

The e-visits and virtual check-ins are designed to make an in-person visit unnecessary, but they don't constitute full treatment.

"CMS kind of muddied the waters a little bit, because CMS has put out little bits of FAQ-type guidance, saying that rehab therapists can provide e-visits, and they can provide virtual check-ins," she said on the webinar. "What they've said is that practitioners who do not bill these E&M codes, who do not bill these evaluation and management codes —and that means rehab therapists and other providers — can bill these virtual check-ins and e-visits."

But what isn't clear is how those things would be applied in the nursing home setting, Morton said.

She also emphasized that these two types of visits are not paid at a full rate like a telehealth visit would be, so these wouldn't be considered treatment sessions.

There are several organizations trying to get rehab therapists added to the distant practitioner list, but this probably wouldn't come to fruition for some time, Morton said. But it's an urgent issue as SNFs try everything they can to keep COVID-19 out of their buildings and maintain their residents' safety.

"We've got this tool of telehealth right there, that we can use to perhaps have a therapist in the building and then perhaps a therapist outside the building at a distant site, communicating with the therapist in the building," she said. "And we can reduce the number of clinicians that need to go into that building."

Gorman noted, for his part, that Key Rehab is trying to use telecommunications and "taking them [CMS] at their word."

In an FAQ posted April 9, CMS said a physician or practitioner in the same physical setting as a Medicare beneficiary who used telecommunications technology because of fear of COVID-19 exposure — for instance, a video link to a separate room with the same facility — would not need to report this as a telehealth service.

That means Key will use telecommunication technology for evaluations for new patients, for instance.

"We are looking at ways to work with our facilities, and saying: Hey, have you got a 'clean' room that we can come into, something that's right near the door … we'll be staying isolated, but we'll be using telecommunications to talk to the therapy assistant, and that therapy assistant will be with the patient," he explained. "And between the therapist utilizing the telecommunication technology and the therapist working with the actual patient, we'll get that evaluation done."

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## Government PPE Plans Could Have 'Grave Consequences' for Senior Living Residents, Staff, Groups Say

**Even though Federal funding is creating relief for certain industries, the support needed to keep senior living communities as healthy as possible is seen as inadequate by many around the country. In places that have been hit the hardest, especially in New York City and the surrounding area, the basic operations of many communities are still a daily struggle, and more relief may be months away.**

Written by: Lois A. Bowers

4/27/2020

The Trump administration's plan to exclude independent living, assisted living, memory care and continuing care retirement communities from an upcoming distribution of personal protective equipment, as described by Vice President Mike Pence in a call with governors on Friday, could have "grave consequences" for the 2 million residents and 1 million staff members who live or work in such communities, the leaders of Argentum and the American Seniors Housing Association said Saturday.

Pence told governors that PPE soon would be shipped to every nursing home in the country to help them prevent or contain cases of COVID-19.

“The exclusion of assisted living and other senior living communities from this order neglects to recognize the care delivered to our seniors and the work of our team members, and we strongly encourage the Trump administration to reconsider it,” Argentum President and CEO James Balda said. “Lives will be saved if we can get our communities the PPE that they still desperately need.”

Not having resources to protect and test senior living residents and staff members “will have significant implications beyond senior living communities,” the organizations said. “A rise in COVID-19 cases in senior living communities will result in increased hospital admissions, straining already limited healthcare resources,” they added.

“For weeks, we’ve been advocating for priority access to PPE and testing for senior living communities,” ASHA President David Schless said. “The senior living industry is vitally important to the health of our overall healthcare system and should be treated as such by our elected officials.”

Balda said Friday that Argentum was pleased that the $484 billion stimulus bill passed by Congress and signed by the president includes $75 billion for the Public Health and Social Services Emergency Fund and an additional $25 billion to the Department of Health and Human Services for COVID-related expenses.

“We believe these added funds may help support the continued needs of the industry,” he said.

Argentum will continue to advocate that a portion of the remaining PHSSEF funds be sent to senior living providers and that Small Business Administration language be changed to allow the senior living industry to be treated similarly to the restaurant and lodging industries as far as eligibility for relief, Balda said.

“Finally, it is our hope that the additional $25 billion allocated to HHS for COVID-related expenses will help with securing more access to testing, which is critically needed across the industry for residents and staff,” he said.

**‘Unrecognized and disrespected’**

In New York, considered the epicenter of the coronavirus outbreak in the United States, adult care facilities and assisted living facilities “seem to have been set up to take the blame” for the fact that residents are contracting the virus, Lisa Newcomb, executive director of the Empire State Association of Assisted Living, said Friday in a letter to Gov. Andrew Cuomo and New York State Department of Health Commissioner Howard Zucker, M.D., J.D., LLM.

Unlike other frontline workers, staff members of adult care facilities and assisted living facilities remain “unrecognized and disrespected,” she said.

“Despite the foreshadowing that the virus would target frail seniors, ACFs and ALFs still have not received the help they need to obtain personal protective equipment (PPE), or the funding required to keep residents safe,” Newcomb said. “ACFs and ALFs were only recently placed on the state’s ‘priority list’ to receive PPE in early April, and remain under-resourced.”

Initial steps that the state should take for providers, Newcomb said, include providing PPE, funding to hire more staff, testing for residents and staff members, and "some temporary regulatory relief so that our staff can dedicate their time caring for residents rather than completing voluminous paperwork and other requirements."

Overall in the state, there were 288,045 confirmed cases of COVID-19 and 16,966 deaths from the disease as of Sunday afternoon, according to the state. New York officials are not reporting deaths in assisted living communities, according to data published Thursday by the Kaiser Family Foundation, but deaths from COVID-19 in 83 nursing homes in the state totaled 3,505.

The American Health Care Association / National Center for Assisted Living on Thursday issued a statement about what it called "the ongoing health crisis at long-term care facilities" in New York.

"Our healthcare workers at nursing homes and assisted living communities are undertaking heroic work on the front lines of the pandemic, caring for a population with a high degree of seniors with underlying health conditions, and they are counting on all of us — from the public to private sector," AHCA / NCAL President and CEO Mark Parkinson said. "The reality is that many long-term care providers are facing an unprecedented situation that has left them begging for testing, personal protective equipment (PPE) and staffing resources. Just like hospitals, we have called for help. In our case, nobody has listened."

More than 70% of long-term care providers are not able to find enough masks, gowns and face shields to protect their workers, Parkinson said. "And lack of timely testing in long-term care has forced providers to rely on a symptoms-based approach, which provenly will not prevent the spread of COVID-19," he said, asking New York's governor and other leaders to "rally around long-term care residents and caregivers just as they have appropriately done with hospitals."

**Proposal calls on Congress to ensure support for HCBS caregivers**

The Partnership for Medicaid Home-Based Care is calling for Congress to adopt measures to support caregivers providing home- and community-based services in settings including senior living.

"Assistance with activities of daily living and instrumental activities of daily living are essential to maintaining the health and safety of persons living at home or in community settings," David J. Totaro, chairman of the organization, said in a statement last week.

The statement followed an April 14 letter PMHC sent to leaders of Congress. Both call for the establishment of a $63 billion HCBS Direct Care Worker Fund to help increase wages and sick time benefits for workers; universal presumptive eligibility, under state Medicaid and Medicaid Waiver programs, for all elderly and disabled individuals deemed to need HCBS, for the duration of the COVID-19 public health emergency; and priority access to personal protective equipment for agencies and workers providing HCBS.