



According to [CMS guidance for the expiration of the COVID-19 Public Health Emergency \(PHE\)](#), the following *Section 1135 Emergency Waivers* for healthcare providers will terminate with the expiration of the PHE on May 11, 2023.

# Quick Reference Guide: 1135 Waiver Termination

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1135 Emergency Waiver	Date of Waiver Termination	Applicable Regulation after PHE Expires	Citation
<p><b>3-Day Prior Qualifying Hospital Stay (QHS) Waiver</b></p> <p>CMS waived the Medicare Part A SNF coverage requirement that the beneficiary must have a 3-day QHS to qualify for a covered Part A SNF stay.</p>	5-11-2023	<ul style="list-style-type: none"> <li>• The CMS <b>Prior Hospitalization and Transfer Requirement</b> establishes that an individual must have a medically necessary hospital inpatient stay of <b>at least 3 consecutive calendar days</b> (3 midnights) and be transferred to the SNF <b>within 30 days</b> of discharge to qualify for posthospital extended care services.</li> <li>• All new SNF stays beginning on or after May 12<sup>th</sup> will require a qualifying hospital stay for Medicare coverage eligibility.</li> <li>• For any new benefit period that begins on or after May 12<sup>th</sup>, the beneficiary will need to have completed a 60-day wellness period.</li> </ul>	F582
<p><b>Alcohol-based Hand-Rub (ABHR) Dispensers</b></p> <p>CMS waived the requirement for ABHR dispensers for SNF/NFs due to the sudden increased need of ABHR in infection control.</p>	5-11-2023	<ul style="list-style-type: none"> <li>• <a href="#">42 CFR 483.90(a)(4)</a> A long-term care facility may install alcohol-based hand rub dispensers in its facility if the dispensers are installed in a manner that adequately protects against inappropriate access.</li> </ul>	K Tag
<p><b>Preadmission Screening &amp; Annual Resident Review (PASARR)</b></p> <p>CMS waived <a href="#">42 CFR 483.20(k)</a> requiring PASARR, allowing nursing homes to admit new residents who have not received Level I or Level II Preadmission Screening.</p>	5-11-2023	<ul style="list-style-type: none"> <li>• Providers must comply with the PASARR requirements per <a href="#">42 CFR 483.20(k)</a> after May 11, 2023.</li> <li>• The medical record for residents with a mental illness (MI) or intellectual disability (ID) must include evidence that PASARR Level I pre-screening is completed prior to admission and, if the Level I pre-screening is positive, Level II screening is conducted prior to admission to the facility.</li> <li>• If the state program permits the use of exceptions and the resident remains in the facility &gt; 30 days, the medical record must include evidence of Level I pre-screening and a referral to the appropriate state-designated authority for Level II screening if the Level I prescreening is positive on or before the 30<sup>th</sup> day of admission.</li> </ul>	F645
<p><b>Resident Roommates and Grouping</b></p> <p>CMS waived the requirements in <a href="#">42 CFR 483.10(e)(5)</a> and <a href="#">(7)</a> to cohort residents with suspected/confirmed respiratory illness (e.g., COVID-19) for IPC.</p>	5-11-2023	<ul style="list-style-type: none"> <li>• <a href="#">42 CFR 483.10(e)</a> The resident has a right to be treated with respect and dignity, including:             <ul style="list-style-type: none"> <li>○ <b>(5) The right to share a room with his or her roommate of choice when practicable</b>, when both residents live in the same facility and both residents consent...</li> <li>○ <b>(7) The right to refuse to transfer to another room in the facility</b>, if the purpose is:                 <ul style="list-style-type: none"> <li>▪ <b>(i)</b> To relocate a resident of a SNF from the distinct part of the institution that is a SNF to a part of the institution that is not a SNF, or</li> <li>▪ <b>(ii)</b> to relocate a resident of a NF from the distinct part of the institution that is a NF to a distinct part of the institution that is a SNF.</li> <li>▪ <b>(iii)</b> solely for the convenience of staff.</li> </ul> </li> </ul> </li> </ul>	F560

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<p><b>Resident Transfer and Discharge</b></p> <p>CMS waived requirements in <b>42 CFR 483.10(c)(5)</b> for facility to provide advanced notice of options relating to the transfer/discharge to another facility.</p> <p>CMS waived requirements in <b>42 CFR 483.15(c)(5)(i)</b> and <b>(iv)</b> AND <b>42 CFR 483.15(c)(9)</b>, and <b>(d)</b> for the written notice of transfer or discharge to be provided before the transfer or discharge.</p>	<p>5-11-2023</p>	<ul style="list-style-type: none"> <li>• <b>42 CFR 483.10(c)(5)</b> <b>The resident has the right to be informed</b> of, and participate in, his or her treatment, including: The right to be <b>informed in advance</b>, by the physician or other practitioner or professional, of the <b>risks and benefits of proposed care</b>, of treatment and treatment alternatives or treatment options, and to choose the alternative or option he or she prefers.</li> <li>• <b>42 CFR 483.15(c)(5) Contents of the notice.</b> The written notice specified in paragraph (c)(3) of this section [<i>notice before transfer</i>] must include the following: <ul style="list-style-type: none"> <li>○ <b>(i)</b> The reason for transfer or discharge;</li> <li>○ <b>(iv)</b> A statement of the resident's appeal rights, including the name, address (mailing and email), and telephone number of the entity which receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request.</li> </ul> </li> <li>• <b>42 CFR 483.15(c)(9) Room changes in a composite distinct part.</b> Room changes in a facility that is a composite distinct part (as defined in § 483.5) are subject to the requirements of § 483.10(e)(7) and must be limited to moves within the particular building in which the resident resides, unless the resident voluntarily agrees to move to another of the composite distinct part's locations. <ul style="list-style-type: none"> <li>○ <b>(d)</b> Notice of bed-hold policy and return – <b>(1)</b> Notice before transfer. Before a nursing facility transfers a resident to a hospital or the resident goes on therapeutic leave, the nursing facility must provide written information to the resident or resident representative with specifics (see i – iv). <ul style="list-style-type: none"> <li>▪ <b>(i)</b> The duration of the state bed-hold policy, if any, during which the resident is permitted to return and resume residence in the nursing facility;</li> <li>▪ <b>(ii)</b> The reserve bed payment policy in the state plan, under § 447.40 of this chapter, if any;</li> <li>▪ <b>(iii)</b> The nursing facility's policies regarding bed-hold periods, which must be consistent with paragraph (e)(1) of this section, permitting a resident to return; and</li> <li>▪ <b>(iv)</b> The information specified in paragraph (e)(1) of this section.</li> </ul> </li> </ul> </li> </ul>	<p>F552</p> <p>F552</p> <p>F560</p>

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<p><b>Nurse Aide Training Competency and Evaluation Programs (NATCEP)</b></p> <p>CMS waived the requirements that a SNF and NF may not employ anyone for longer than four months unless they met the training and certification requirements under <b>42 CFR §483.35(d)</b> (except for 42 CFR §483.35(d)(1)(i)).</p> <p>CMS memorandum <a href="#">QSO-22-15-NH &amp; NLTC &amp; LSC</a> terminated this blanket waiver; <i>however</i>, individual states and facilities could apply for a separate time-limited waiver of these requirements for instances where the volume of nurse aides that must complete a state-approved NATCEP exceeded the availability of approved training and testing programs.</p> <p>All individual waivers granted to states and individual facilities will terminate no later than the conclusion of the PHE.</p>	<p>5-11-2023</p> <p>Uncertified nurse aides working in a LTC facility covered by a waiver granted to a state or individual facility will have 4 months <b>(9-11-23)</b> from the date the PHE ends (or from the termination date of the facility’s or state’s waiver, if earlier) to complete a state approved NATCEP program.</p>	<ul style="list-style-type: none"> <li>• <a href="#">42 CFR §483.35(d)</a> <i>Requirements for facility hiring and use of nursing aides</i> —             <ul style="list-style-type: none"> <li>○ <b>(1) General rule.</b> A facility must not use any individual working in the facility as a nurse aide for more than 4 months, on a full-time basis, unless—                 <ul style="list-style-type: none"> <li>▪ <b>(i)</b> That individual is competent to provide nursing and nursing related services; and</li> <li>▪ <b>(ii)</b> <ul style="list-style-type: none"> <li>• <b>(A)</b> That individual has completed a training and competency evaluation program, or a competency evaluation program approved by the state as meeting the requirements of <a href="#">§§ 483.151</a> through <a href="#">483.154</a>; or</li> <li>• <b>(B)</b> That individual has been deemed or determined competent as provided in <a href="#">§ 483.150(a)</a> and <a href="#">(b)</a>.</li> </ul> </li> </ul> </li> </ul> </li> </ul>	<p>F728</p>