



Quick Reference Guide: COVID-19 Regulatory Requirement Changes with PHE Expiration

According to [CMS guidance for the expiration of the COVID-19 Public Health Emergency \(PHE\)](#), certain LTC regulatory requirements implemented during the COVID-19 pandemic will change with the expiration of the PHE on May 11, 2023.

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Regulation During COVID-19 PHE	Date of Regulation Change	Applicable Regulation after PHE Expires
<p>Staff Vaccination Requirements</p> <p>On 11-5-21, CMS issued an interim final rule (CMS-3415-IFC) requiring Medicare and Medicaid-certified providers and suppliers to ensure that their staff were fully vaccinated for COVID-19 (i.e., obtain the primary vaccination series).</p>	<p>Anticipated around the end of the PHE on 5-11-2023</p>	<ul style="list-style-type: none"> • CMS will soon end the requirement that covered providers and suppliers must establish policies and procedures for staff vaccination (F887). • CMS will share more details regarding ending this requirement at the anticipated end of the public health emergency. • Despite this, CMS urges everyone to stay up to date with COVID-19 vaccination.
<p>Emergency Preparedness Training and Testing Program Exemption</p> <p>CMS regulations for Emergency Preparedness (EP) require that the Medicare and Medicaid-certified provider/supplier conduct exercises to test their EP plan to ensure that it works, and that staff are trained appropriately about their roles and the organization's processes.</p> <p>During or after an actual emergency (e.g., the COVID-19 PHE), the EP regulations allow for a one-year exemption from the requirement that the provider/supplier perform testing exercises.</p> <p>The exemption only applies to the next required full-scale exercise, based on the 12-month exercise cycle as determined by the provider/supplier, and only when the EP program is actually activated for an emergency event.</p>	<p>5-11-2023</p>	<ul style="list-style-type: none"> • Providers/suppliers are expected to return to normal operating status and comply with the regulatory requirements for emergency preparedness with the conclusion of the PHE (E Tags – See SOM Appendix Z). • This includes conducting testing exercises based on the regulatory requirements for specific provider/supplier types. • Inpatient Providers and Suppliers (including LTCFs, ICFs/IDDs): <ul style="list-style-type: none"> ○ The provider/supplier must conduct a full-scale exercise within its annual cycle for 2023 and an exercise of choice.
<p>Requirements for COVID-19 Testing</p> <p>On August 25, 2020, CMS issued an IFC (CMS-3401-IFC) requiring LTCFs to perform routine testing of residents and staff for the COVID-19 infection.</p> <p>As noted in the IFC, this testing regulation will expire with the end of the PHE.</p>	<p>5-11-2023</p>	<p>Per CMS memo QSO-23-13-ALL:</p> <p>COVID-19 testing is still an important action and is a nationally recognized standard to help identify and prevent the spread of COVID-19.</p> <p>Therefore, while this specific regulatory requirement will end with the PHE, CMS still expects facilities to conduct COVID-19 testing in accordance with accepted national standards, such as CDC recommendations.</p> <p>Noncompliance with this expectation will be cited at F880 for failure to implement an effective Infection Prevention and Control Program in accordance with accepted national standards.</p>

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Regulation Related to COVID-19 PHE	Date of Regulation Change	Applicable Regulation after PHE Expires
<p>Requirements for Reporting related to COVID-19</p> <p>CMS published an IFC (CMS-5531-IFC) requiring all LTCFs to report COVID-19 information using the CDC NHSN per 42 CFR 483(g).</p> <p>Additionally, facilities have been required to inform their residents (and representative/families) following the occurrence of either a single confirmed infection of COVID-19 or three or more residents or staff with new-onset of symptoms.</p> <p>This requirement to report information was extended through a final rule (CMS-1747-F) and is set to terminate on December 31, 2024, with the exception of the requirements at §483.80(g)(1)(viii)*, which will continue to be in effect as a requirement to support national efforts to control the spread of COVID-19.</p>	<p>All reporting requirements referenced under §483.80(g) remain in effect until 12-31-2024 EXCEPT as follows:</p> <p>§483.80(g)(1)(viii)*: Will stay in effect indefinitely as a requirement to support national efforts to control the spread of COVID-19.</p> <p>§483.80(g)(3)*: CMS is exercising enforcement discretion and will not expect providers to meet the requirements at 42 CFR 483.80(g)(3) at this time.</p>	<ul style="list-style-type: none"> • § 483.80(g) COVID–19 reporting. Until December 31, 2024 (with the exception of the requirements in paragraph (g)(1)(viii)* that continue indefinitely), the facility must do all of the following (Noncompliance with this reporting requirement will receive a deficiency citation at F884 [LINK]): <ul style="list-style-type: none"> ○ (1) Electronically report information about COVID–19 in a standardized format specified by the Secretary. To the extent as required by the Secretary, this report must include the following: <ul style="list-style-type: none"> ▪ (i) Suspected and confirmed COVID–19 infections among residents and staff, including residents previously treated for COVID–19. ▪ (ii) Total deaths and COVID–19 deaths among residents and staff. ▪ (iii) Personal protective equipment and hand hygiene supplies in the facility. ▪ (iv) Ventilator capacity and supplies in the facility. ▪ (v) Resident beds and census. ▪ (vi) Access to COVID–19 testing while the resident is in the facility. ▪ (vii) Staffing shortages. ▪ (viii)*(<i>Currently continued indefinitely</i>) The COVID–19 vaccine status of residents and staff, including total numbers of residents and staff, numbers of residents and staff vaccinated, numbers of each dose of COVID–19 vaccine received, and COVID–19 vaccination adverse events. ▪ (ix) Therapeutics administered to residents for treatment of COVID–19. ○ (2) Provide the information specified in paragraph (g)(1) of this section weekly, unless the Secretary specifies a lesser frequency, to the CDC’s NHSN. This information will be posted publicly by CMS to support protecting the health and safety of residents, personnel, and the general public. ○ (3)[‡] (<i>Currently not being enforced – otherwise noncompliance would be cited under F885 [LINK]</i>) Inform residents, their representatives, and families of those residing in facilities by 5 p.m. the next calendar day following the occurrence of either 1 confirmed infection of COVID–19, or ≥3 residents or staff with new-onset of respiratory symptoms occurring within 72 hours of each other. This information must do all of the following: <ul style="list-style-type: none"> ▪ (i) Not include personally identifiable information. ▪ (ii) Include information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations of the facility will be altered. ▪ (iii) Include any cumulative updates for residents, their representatives, and families at least weekly or by 5 p.m. the next calendar day following the subsequent occurrence of either: Each time a confirmed infection of COVID–19 is identified, or whenever three or more residents or staff with new onset of respiratory symptoms occur within 72 hours of each other.

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<p>Requirements for Educating about and Offering Residents and Staff the COVID-19 Vaccine</p> <p>On May 21, 2021, CMS issued an IFC (CMS-3414-IFC) requiring all LTCFs to educate residents and staff on the COVID-19 vaccines and offer to help them get vaccinated.</p> <p>Pursuant to section 1871(a)(3) of the Act, Medicare interim final rules expire 3 years after issuance unless the Secretary determines an earlier end date.</p> <p>Therefore, this requirement will remain in effect until May 21, 2024, unless additional regulatory action is taken.</p>	<p>5-21-2024</p> <p>(Unless other regulatory action is taken)</p>	<ul style="list-style-type: none"> • § 483.80(d)(3) COVID-19 immunizations —The LTC facility must develop and implement policies and procedures to ensure all the following (Noncompliance related to the requirements for educating and offering COVID-19 vaccination to residents and staff will be cited at F887 [LINK]): <ul style="list-style-type: none"> ○ (i) When COVID-19 vaccine is available to the facility, each resident and staff member is offered the COVID-19 vaccine unless the immunization is medically contraindicated or the resident or staff member has already been immunized; ○ (ii) Before offering COVID-19 vaccine, all staff members are provided with education regarding the benefits and risks and potential side effects associated with the vaccine; ○ (iii) Before offering COVID-19 vaccine, each resident or the resident representative receives education regarding the benefits and risks and potential side effects associated with the COVID-19 vaccine; ○ (iv) In situations where COVID-19 vaccination requires multiple doses, the resident, resident representative, or staff member is provided with current information regarding those additional doses, including any changes in the benefits or risks and potential side effects associated with the COVID-19 vaccine, before requesting consent for administration of any additional doses; ○ (v) The resident or resident representative, has the opportunity to accept or refuse a COVID-19 vaccine, and change their decision; and ○ (vi) The resident's medical record includes documentation that indicates, at a minimum, the following: <ul style="list-style-type: none"> ▪ (A) That the resident or resident representative was provided education regarding the benefits and potential risks associated with COVID-19 vaccine; and ▪ (B) Each dose of COVID-19 vaccine administered to the resident; or ▪ (C) If the resident did not receive the COVID-19 vaccine due to medical contraindications or refusal; and ○ (vii) The facility maintains documentation related to staff COVID-19 vaccination that includes at a minimum, the following: <ul style="list-style-type: none"> ▪ (A) That staff were provided education regarding the benefits and potential risks associated with COVID-19 vaccine; ▪ (B) Staff were offered the COVID-19 vaccine or information on obtaining COVID-19 vaccine; and ▪ (C) The COVID-19 vaccine status of staff and related information as indicated by the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN).