
COVID-19 HEALTHCARE REGULATORY UPDATE

Health Care providers have witnessed a flurry of activity from the Centers for Medicare and Medicaid Services (CMS) as it seeks to mitigate the strain that COVID-19 is placing on the American healthcare system. Recently, CMS has issued a seemingly-endless stream of waivers, coverage expansions and guidance to help providers overcome regulatory hurdles and mitigate the outbreak. We have compiled a list of important announcements to assist our Health Care clients as they navigate this difficult and unprecedented time. This list can also be found on our website at: [COVID-19 Task Force and Resources](#), where we will post future updates. If you have any questions, please do not hesitate to reach out to any member of Maynard's [Health Care Practice](#).

- [CMS Issues FAQ on Catastrophic Health Coverage and the Coronavirus](#) (March 19)

CMS allows issuers of catastrophic plans to provide coverage for COVID-19 related services before an enrollee meets the plan's deductible.

- [President Trump signs executive order to ramp up production of personal protective equipment and ventilators](#) (March 18)

The executive order invokes the Defense Production Act of 1950, giving the Secretary of Health and Human Services the authority to determine, in consultation with other agencies, the proper priorities, allocation and distribution of all health and medical resources in the civilian market to respond to the spread of COVID-19.

- [CMS issues guidance to suspend all adult elective surgical and dental procedures until further notice](#) (March 18)

This announcement outlines factors hospitals and ASCs should consider in postponing procedures based on patient risk factors, urgency, availability of beds, ventilators, staff and PPE.

- [Trump Administration expands telehealth coverage for Medicare beneficiaries](#) (March 17)

CMS will temporarily pay a range of healthcare providers to offer telehealth services for beneficiaries residing across the country in any healthcare facility or in their own homes. Clinicians can bill for dates of services starting March 6, 2020. The CMS fact sheet linked above includes a summary of available services and billing codes. The HHS Office for Civil rights followed with its own [announcement](#) waiving penalties for HIPAA violations against providers that serve patients through everyday communications technologies during the national emergency. Some commercial insurers have followed suit with their own expansions of telehealth coverage.

- [HHS issues limited waiver of HIPAA sanctions and penalties](#) (March 13)

HHS is waiving penalties against covered hospitals that fail to comply with certain HIPAA prohibitions against patient data sharing. The waiver is available for up to 72 hours from the time a hospital implements its disaster protocol.

- [CMS issues Guidance for Infection Control and Prevention of COVID-19 in Nursing Homes](#) (March 13)

CMS restricts visitation of all visitors and non-essential health care personnel in nursing homes throughout the country. Visitation is allowed in end-of-life situations, subject to certain requirements. The guidance also addresses the admission and transfer of residents with suspected or confirmed COVID-19 diagnoses.

- [CMS publishes FAQ on Essential Health Benefits Coverage for COVID-19](#) (March 13)

This FAQ details existing federal rules on health coverage in the individual and small group insurance markets that apply to the diagnosis and treatment of COVID-19.

- [CMS issues COVID-19 Emergency Declaration Health Care Providers Fact Sheet](#) (March 13)

CMS outlines numerous waivers it has issued to mitigate COVID-19 and explains the Section 1135 waiver submission process. The Fact Sheet details waiver of the 3-night hospital stay for SNF admissions; waiver of limitations on CAH bed capacity and length of stay; waiver of replacement requirements for DME; waiver of restrictions on relocating certain hospital patients from excluded distinct part units to acute care beds; as well as other waivers related to LTCHs, home health agencies, provider licensing and enrollment, and Medicare appeals.

- [CMS Issues Protective Mask Guidance for Healthcare Workers](#) (March 10)

CMS sends memorandum to State Survey Agencies (SAs), expanding the types of facemasks healthcare workers may use in situations involving COVID-19 and other respiratory infections, and temporarily suspending SA validation of annual fit tests to conserve masks.

- [CMS Issues Guidance to help Medicare Advantage and Part D Plans Respond to COVID-19](#) (March 10)

CMS authorizes MA and Part D plans to waive cost-sharing for COVID-19 tests and treatments, removes prior authorization requirements and waives prescription refill limits and restrictions on home delivery of prescription drugs.

- [CMS supplements its guidance to home health agencies and dialysis facilities about COVID-19](#) (March 10)

This guidance outlines updated screening procedures for patients and visitors in [dialysis facilities](#) and helps [home health agencies](#) determine when it is safe to treat patients at home.

- [CMS issues Memorandum on Emergency Medical Treatment and Labor Act \(EMTALA\) Requirements and Implications Related to COVID-19](#) (March 9)

CMS addresses concerns about the ability of hospitals and CAHs to fulfill their EMTALA screening obligations while minimizing the risk of exposure from COVID-19 infected individuals to others in the ED, and outlines requirements for COVID-19 screening at alternate sites.

- [CMS issues FAQ regarding payment for lab tests and other services related to COVID-19](#) (March 6)

This FAQ outlines Medicare coverage and billing for laboratory, physician, hospital, ambulance and other services related to COVID-19.

- [CMS suspends non-emergency inspections of healthcare facilities](#) (March 4)

CMS shifts survey prioritization to enable SAs to address the spread of COVID-19. Inspections for abuse complaints, in-process enforcement actions, and surveys mandated by law to occur within specific time intervals will continue uninterrupted, as well as initial certification surveys for new providers to support building healthcare capacity. CMS issued related [FAQ](#) on March 13.