



April 21, 2020

The Honorable Alex Azar
Secretary
Department of Health and Human Services
200 Independence Ave., S.W.
Washington, DC 20201

The Honorable Seema Verma
Administrator, Centers for Medicare and Medicaid Services
Department of Health and Human Services ()
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar and Administrator Verma:

On behalf of the 6000 nonprofit aging services providers who are members of LeadingAge, we are writing to express our concern with the recently announced order for nursing homes to report cases of COVID-19 to the CDC. We strongly support accurate and consistent reporting to identify and to address the impact of COVID-19 on our communities. However, complicated, duplicative reporting, as required under the new QSO memo, will lead to inconsistent and contradictory data, and exacerbate public confusion.

Nursing homes are already required to report COVID-19 information to their state health departments. We understand that this data is not necessarily consistent across states. However, as Senator Grassley pointed out in his letter to you both dated April 17, “Given the lack of consistently reported data, I encourage you to exercise additional leadership in this area, e.g., by issuing guidance for states to promote uniformity in the tracking and reporting of COVID-19 cases in nursing homes, assisted living facilities, and other long-term care facilities participating in the Medicaid and Medicare programs.” (emphasis added). We concur with the Senator, and strongly urge HHS to adopt his recommendations.

Requiring nursing homes to report different data to different agencies, which is the impact of this new requirement, exponentially increases the potential for error and misinterpretation. While we have yet to see what CDC will be requiring, since HHS has concluded that what the states report is not enough or is not consistent, we are assuming nursing homes will have to report other data or the same data in different form and with a different time line. This will require nursing homes to track different reporting requirements and run the risk of being fined if they make a mistake in reporting. Different data or the same data reported differently will confuse staff, families, residents, and the public, at a time when we need to be simple and accurate.

The burden on nursing homes of this additional reporting should not be underestimated. Nursing homes are already stretched to capacity dealing with COVID-19 or the threat of COVID-19, and demanding additional paperwork requirements moves professional staff off the floor and into their offices when they are needed most, impeding the delivery of best possible care. This makes no sense when the agency can already receive this information from the states.

We urge you to rescind this requirement. We recommend either allowing nursing homes to submit the same data they submit to the states to CDC in the same format that they use for state submissions, or to require the states to change their data collection requirements to a uniform federal standard. Regardless of how the data submission requirement is structured in terms of content and to whom nursing homes report, only one report should be required and enforcement actions against homes that are already complying with their state requirements should be eliminated as counter-productive.

We appreciate that you have listened closely to our members as this crisis has unfolded, that you have exercised appropriate discretion to focus attention on pandemic preparedness and response, and that you have been available to address our needs and concerns. We need, as we have stated, priority access to testing if we are to identify and protect residents and staff; we need, as we have stated, priority access to personal protective equipment to protect residents and staff; we are struggling to provide incentives to staff to come to work. These new reporting requirements accomplish none of these goals, and we again, urge you to rescind them.

We are happy to work with you to develop a standardized reporting form for universal reporting to states, localities, the federal government, and the public. We feel that one form will provide consistent, uniform information which can be used to provide necessary services and supports to nursing homes experiencing COVID-19 outbreaks and the transparency everyone deserves.

Sincerely,

A handwritten signature in black ink that reads "Katie Smith Sloan". The signature is written in a cursive, flowing style.

Katie Smith Sloan,
President and CEO

Addendum:

1. Nursing homes currently have the option to report healthcare-associated infections through the CDC's National Healthcare Safety Network (NHSN) system. CMS has stated that soon, nursing home reporting on COVID-19 will be required. We note that a COVID-19 module has already been developed for hospital reporting, and that this reporting is optional. Will HHS demonstrate commitment to consistent and accurate reporting by requiring both hospitals and nursing homes to report COVID-19 cases through the NHSN system?
2. The NHSN system COVID-19 reporting module for nursing homes is currently under development. After reviewing the existing COVID-19 reporting module for hospitals, which consists of 28 data elements measuring capacity, healthcare worker staffing, and healthcare supply, we are concerned about the logistics of such intensive reporting. How many data elements will the nursing home module contain? How much time does HHS anticipate will be taken away from patient care to collect and submit this data?
3. The COVID-19 reporting module for hospitals recommends that data be submitted on a daily basis. Does HHS intend for nursing homes to take the above-mentioned time away from patient care on a daily basis for the collection and submission of this data?
4. The COVID-19 reporting module for hospitals expects weekend data to be submitted retroactively and allows for retroactive submission of data as far back as January 1, 2020. There appears to be no penalty or enforcement action taken for retroactive data submission. Recognizing the Administration's commitment to consistency, will HHS also allow retroactive submission of data to the COVID-19 module for nursing homes without penalty or enforcement action?
5. In accordance with long-standing requirements for reporting of infectious disease, nursing homes currently report cases of COVID-19 to state/local health departments. As noted in CMS memo QSO-20-26-NH, CMS, CDC, and FEMA have not been collecting this data. What efforts were made to address this lack of data collection through collaboration between the health departments and CMS/CDC/FEMA prior to imposing duplicative reporting on nursing homes?
6. CMS memo QSO-20-26-NH reports that data reported by nursing homes to CDC through the NHSN system may be reported publicly. How will this data be reported publicly? How and by whom does HHS anticipate publicly reported data being used?
7. Guidance on the CDC NHSN system webpage states that there is a history of intentional non-reporting of infection data by hospitals. What steps have CMS taken to improve reporting? What enforcements were most effective? What were hospitals' barriers to reporting and how have CMS/CDC addressed these barriers when creating the nursing home module?
8. As noted above, the COVID-19 reporting module for nursing homes is currently under development and no information about this module or the reporting process is available to nursing homes at this time. What support will HHS provide to nursing homes to ensure accurate reporting as they learn this new, additional reporting requirement? Will there be a grace period between when the module becomes available and when nursing homes will be subject to enforcement, or does HHS anticipate imposing enforcement actions immediately upon unveiling this brand-new module?