

March 27, 2020

Administrator Seema Verma
Centers for Medicare and Medicaid Services
Submitted Electronically to: 1135waiver@cms.hhs.gov

Administrator Verma,

On behalf of Wisconsin's long-term care provider community, LeadingAge Wisconsin and the Wisconsin Health Care Association and the Wisconsin Center for Assisted Living (WHCA/WiCAL) respectfully request approval for the below detailed flexibilities under Section 1135 of the Social Security Act (42 U.S.C. § 1320b-5) as related to the Novel Coronavirus (COVID-19). Please consider each of the below numbered requests independent of and severable from the other numbered requests submitted herein.

This 1135 waiver request is in addition to, and is not meant to replace or supersede, a waiver request submitted by our associations on behalf of Wisconsin's nursing homes on March 18, 2020.

Collectively, the two associations represent nearly all of the nursing homes in the State of Wisconsin; with that said, the intent of this request is to have these waivers apply to all nursing facilities in the State of Wisconsin. Further, we believe that given the significant challenges facing nursing homes across the country, the Centers for Medicare and Medicaid Services (CMS) should address all necessary flexibilities to the regulatory system to ensure that skilled nursing facilities are in a position to provide care to the vulnerable elderly residents they serve.

Wisconsin's LTC Provider Associations seek temporary statewide waiver of this Provider Participation provision:

1. Waive Pre-Admission Screening and Annual Resident Review (PASSR Level I and Level II Assessment) when members are transferred. If the nursing facility is not certain whether a Level I had been conducted at the resident's evacuating facility, a Level I can be conducted by the admitting facility during the first few days of admission as part of intake. If there is not enough information to complete a Level I, the nursing facility will document this in the case files. Level II evaluations and determinations are also not required preadmission when residents are being transferred between nursing facilities. Residents who are transferred will receive a post admission review which will be completed as resources become available.

Wisconsin's LTC Provider Associations seek temporary statewide waiver of nursing home provider requirements:

2. Frequency of Physician Visits. 42 C.F.R. § 483.30(c) (1)-(4). Waive the 30/60/90-day schedule requirement for in-person physician visits for nursing home residents and allow visits to be conducted, as appropriate, via telehealth options.
3. Medical Director. 42 C.F.R. § 483.70(h)(1)-(2). Create provisions allowing for additional flexibilities to allow for the utilization of physician extenders in place of Medical Directors and attending physicians, and via telehealth options.
4. Notice before transfer. 42 C.F.R. § 483.15(c)(3)-(6). Waive notice of transfers due to medically necessary protection of COVID-19. (To separate ill and well residents).

5. Orientation for transfer or discharge. 42 C.F.R. § 483.15(c)(7). Waive requirement to document sufficient preparation and orientation to resident to ensure a safer and orderly transfer intra facility only. There may be a time when a resident needs to be moved immediately for their safety.
6. Bedhold policy. 42 C.F.R. § 483.15(d)(1)-(2). Waive requirements for bed hold policy.
7. Regular in-service education. 42 C.F.R. § 483.35 (d)(7). Waive the requirement during this period due to the workforce reduction during the COVID crisis.
8. Nurse staffing. 42 C.F.R. § 483.35(g)(1)-(4). Waive nurse staffing information and posting of that information.
9. Drug Regimen Review. 42 C.F.R. § 483.45(c)(1)-(2), (4), (5). Suspend pharmacists from going in monthly to facility to do record review. (From their office potentially).
10. Paid feeding assistants. 42 C.F.R. § 483.60(h)(1)-(3). Waive or lessen requirements for a program and set guidelines for training to assist with the COVID-19 crisis.

Wisconsin's LTC Provider Associations seek temporary statewide waiver of nurse aide training and testing requirements:

11. 42 C.F.R. § 483.152(a)(3). To allow all clinical hours to be online simulation.
12. 42 C.F.R. § 483.152(a)(5). Waive the primary instructor qualifications for approval of a nurse aide training and competency evaluation program.
13. 42 C.F.R. § 483.151(b)(2). Waive the loss of Nurse Aide Training and Competency Evaluation Program (NATCEP).
14. 42 C.F.R. § 483.160. Waive the requirements for training of paid feeding assistants.
15. 42 C.F.R. § 483.35(d)(1)-(3). Waive these provisions to allow providers to use personnel to perform some nursing related services without being enrolled in an approved training and competency evaluation program.

Wisconsin Provider Associations seek temporary statewide waiver of the Life Safety Code:

16. 42 Maintenance reviews. 42 C.F.R. § 483.90. Waive the annual/quarterly screening of fire extinguishers and/or any other annual review of maintenance during the COVID-19 national emergency.

Wisconsin Provider Associations request temporary statewide waiver/suspension of payroll-based journal requirements:

17. 42 CFR 483.70(q) Waive the mandatory submission of staffing information based on payroll data in a uniform format.

Thank you for your consideration. Please do not hesitate to contact us with questions or concerns.

Sincerely,

JOHN SAUER
President & CEO
LeadingAge Wisconsin
(608) 444-9295
jsauer@leadingagewi.org

JOHN J. VANDER MEER
President & CEO
Wisconsin Health Care Association
Wisconsin Center for Assisted Living
(608) 217-3168
john@whcawical.org

Cc:

Gregg Brandush
Otis Woods