

July 16, 2020

State and CMS Survey Guidance for Skilled Nursing Facilities during the COVID-19 Pandemic

On June 3, 2020, Governor Tom Wolf renewed the Proclamation of Disaster Emergency issued on March 6, 2020, to enable agencies to respond promptly to the novel Coronavirus disease (COVID-19) for 90 days. To slow the spread of coronavirus disease 2019 (COVID-19) into Pennsylvania, and consistent with the guidance issued by the [Centers for Medicare and Medicaid Services \(CMS\)](#) the Department of Health (Department) issued guidance on March 31, 2020, *State and CMS Survey Guidance for Health Care Facilities during the COVID-19 Pandemic*, to identify the Department's prioritization of survey activities.

As mitigation efforts have helped to curtail the spread of COVID-19, the Department has instituted a plan for the reopening of the Commonwealth. The reopening plan institutes three phases with differing degrees of restrictions. The three separate phases are coordinated by color (red, yellow, and green) to indicate most restrictive to least restrictive.

This guidance supersedes the previously issued guidance to the extent that the previously issued guidance it applied to skilled nursing care facilities.

The purpose of this guidance is to inform facilities how the Department will conduct surveys of facilities located in counties that have moved to the yellow and green phases of the Governor's reopening plan. This guidance is effective immediately.

Coordination with CMS on Prioritization of Survey Activities

The Department acts as the State Survey Agency (SSA) for CMS. Accordingly, when acting in its dual capacity as SSA and the state regulatory authority, the Department will follow CMS directives, including those relating to prioritizations of surveys. CMS directives for SSAs relating to skilled nursing care facilities are incorporated by reference in this guidance.

State Licensure Surveys

Initial Licensure Surveys

The Department will conduct initial licensure surveys, regardless of the reopening phase of the county where the facility is located (red-yellow-green). Initial licensure surveys will take place on-site, though the Department may conduct portions of the survey off-site if an off-site survey would not affect patient safety or quality assurance.

In addition to the guidance in this section, the Department will follow CMS directives for initial licensure/certification surveys. Unless otherwise directed, the Department will prioritize initial licensure surveys based upon date of request.

License Renewal Surveys

Any skilled nursing facility license due to expire on or before August 31, 2020, including those that were extended under the initial survey guidance issued on March 31, 2020, will be extended an additional 90 days from the date of expiration. This extension includes provisional licenses.

The Department will conduct license renewal surveys for facilities located in counties designated as in the “yellow” or “green” phase of reopening. License renewal surveys will take place on-site, though the Department may conduct portions of the survey off-site if an off-site survey would not affect patient safety or quality assurance.

Skilled nursing facility state license renewal surveys will be scheduled based upon the expiration date of the facility’s license if the CMS recertification date is not the same as the license expiration date.

If a license that was extended is renewed upon completion of a license renewal survey, the renewed license will reflect the original expiration date and not the extended license date. For example, if the facility license would have expired on April 31, 2020, and pursuant to the Department’s guidance was extended for two 90-day periods to October 31, 2020, the renewed license the facility receives will reflect a renewal term from the original license expiration date (April 31, 2020) or April 30, 2021 to April 30, 2022.

Complaint Surveys

Complaint surveys will continue to be conducted for all facilities, regardless of the phase of reopening of the county where the facility is located. Complaints containing allegations that a facility caused or is likely to cause serious injury, harm, impairment, or death to a resident will continue to be conducted on-site.

Complaint surveys in response to allegations that do not rise to that level will generally take place on-site, though the Department may conduct portions of the survey off-site if an off-site survey or review would not affect patient safety or quality assurance.

The Department will follow the most current CMS directives, as applicable, including prioritization.

Occupancy Surveys

Occupancy surveys conducted by the Department’s Divisions of Nursing Care Facilities (DNCF) and Safety Inspection (DSI) that are not part of an initial licensure survey will be completed in accordance with the following guidance:

DNCF Occupancy Surveys

DNCF will conduct occupancy surveys for facilities in counties in the “yellow” or “green” phase of reopening. Occupancy surveys may also be conducted for facilities in counties in the “red” phase of reopening if the area being surveyed has not been occupied by patients since March 1, 2020 and Department staff would not have to enter or pass through any occupied spaces to conduct the survey.

DNCF occupancy surveys will be conducted on-site for all alterations, renovations, or construction relating to patient care areas. Other DNCF occupancy surveys will occur on-site unless DNCF determines that an off-site review would not compromise quality assurance or patient safety.

DSI Occupancy Surveys

DSI will conduct occupancy surveys for facilities in counties in the “yellow” or “green” phase of reopening. DSI occupancy surveys may also be conducted for facilities in counties in the “red” phase of reopening if the area being surveyed has not been occupied by patients since March 1, 2020 and Department staff would not have to enter or pass through any occupied spaces to conduct the survey.

DSI occupancy surveys will be conducted on-site unless DSI determines that an off-site review would not compromise quality assurance or patient safety.

Closure Surveys

Nursing Care Facility closure surveys will not be prioritized by the Department for the duration of the Governor’s Disaster Proclamation. Closure surveys may occur in facilities located in counties in “yellow” or “green” phase of reopening if the facility has been unoccupied by patients or residents for at least 14 days. Closure surveys will occur on-site unless the Department determines that portions of the closure plan can be verified off-site without compromising quality assurance, patient safety, or community impact.

CMS Prioritization of Survey Activities and State Licensure Surveys

The Department will use the following prioritization criteria when determining which facilities to survey in the “green” phase of reopening:

Complaint Surveys

The Department will follow CMS guidance for prioritizing surveys for complaint investigations. In addition to following CMS guidance, the Department may take other factors into consideration when choosing to prioritize a facility for surveying. For example, if the Department identifies a trend in allegations that indicates an increased risk of harm to residents or receives corroborating information about regarding the allegation, then the Department may increase the prioritization of that complaint.

Standard Recertification Surveys

For standard recertification surveys, the Department will prioritize surveys based on the following factors:

1. Facilities that have had a significant number of COVID-19 positive cases;
2. Special Focus Facilities;
3. Special Focus Facility candidates;
4. Facilities that are overdue for a standard survey (less than 15 months since last standard survey, license expiration in less than 12 months or Provisional licenses expiration in less than 6 months) and a history of noncompliance at the harm level (citations of “G” or above) with the below items:
 - a. Abuse or neglect
 - b. Infection control
 - c. Violations of transfer or discharge requirements
 - d. Insufficient staffing or competency
 - e. Other quality of care issues (e.g., falls, pressure ulcers, etc.)

Other Information

When a Department surveyor has need to enter a facility for any of the reasons stated above, the surveyor will follow appropriate infection control measures as provided by the Centers for Disease Control and Prevention (CDC) guidance and comply with the facility’s screening protocols. The facility shall make all reasonable attempts to provide necessary Personal Protective Equipment (PPE) to the surveyor.

With the Governor’s authorization as conferred in the Proclamation of Disaster Emergency on March 6, 2020, as amended on June 3, 2020, all statutory and regulatory provisions that would



impose an impediment to implementing this guidance are suspended. Those suspensions will remain in place while the Proclamation of Disaster Emergency remains in effect.