

April 10, 2020

CMS Releases Additional Waivers for COVID-19

Emergency declaration waivers related to flexibility for clinicians

The Centers for Medicare & Medicaid Services (CMS) yesterday released additional [new waivers](#) related to COVID-19. The waivers apply nationwide and are retroactive to March 1, 2020. Specifically, the agency provided additional waivers for clinicians that reduce supervision and other requirements to allow practitioners to work to the fullest extent of their licenses. These include:

Waiving the requirement that critical access hospitals (CAHs) have a physician physically present to provide medical direction, consultation and supervision. The requirement that a physician be available “through direct radio or telephone communication, or electronic communication for consultation, assistance with medical emergencies, or patient referral” remains. CMS states that this action will allow the physician to perform responsibilities remotely, as appropriate, and also allow CAHs to use nurse practitioners and physician assistants to the fullest extent possible.

Waiving the requirement that a nurse practitioner, physician assistant or certified nurse-midwife be available to furnish patient care services at least 50% of the time a rural health clinic (RHC) or federally qualified health center (FQHC) operates. The requirement that a physician, nurse practitioner, physician assistant, certified nurse-midwife, clinical social worker or clinical psychologist to be available to furnish patient care services at all times remains. CMS states that this will assist in addressing potential staffing shortages by increasing flexibility regarding staffing mix.

Waiving the requirement that physicians must provide medical supervision of nurse practitioners at RHCs and FQHCs, to the extent permitted by state law. CMS states that this allows RHCs and FQHCs to use nurse practitioners to the fullest extent possible and allows physicians to direct their time to more critical tasks.

Waiving regulations that prevent a physician at a long-term care facility from delegating a task when the regulations specify that the physician must perform it personally. Any task delegated under this waiver must continue to be under the supervision of the physician, and may not be delegated when prohibited under state law or by the facility’s own policy.

Waiving the requirement that all applicable required physician visits at a long-term care facility be made by the physician personally.

Waiving the requirement that home health agency (HHA) occupational therapists (OTs) may only perform the initial and comprehensive assessment if occupational therapy is the service that establishes eligibility for the patient to be receiving home health care. This allows OTs to perform the initial and comprehensive assessment for all patients receiving therapy services as part of the plan of care, to the extent permitted under state law, regardless of whether occupational therapy is the service that establishes eligibility.

Waiving the requirements that a nurse to conduct an onsite supervisory visit every two weeks for patients under HHA care.

Modifying the requirement that a hospice aide must be evaluated by observing an aide's performance of certain tasks with a patient. CMS will instead allow hospices to utilize "pseudo patients," such as a computer-based mannequin device, instead of actual patients.

Waiving the requirement that hospices must assure that each hospice aide receives 12 hours of in-service training in a 12-month period.

Further Questions

If you have questions, please contact AHA at 800-424-4301.