



LAW ALERT

April 3, 2020

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Important New Guidance for Home Health Agencies

The Trump Administration issued new guidance on March 30, 2020 affording home health agencies with additional flexibility in our fight against COVID-19. These temporary measures have been designed to, among other things, to preserve the capacity of the health care delivery system to address a possible surge in coronavirus cases. The following are some of the steps taken by the Centers for Medicare and Medicaid Services to be applied nationwide for the duration of the emergency declaration:

Telemedicine: Home health agencies can provide services to beneficiaries using telemedicine tools as long as it is part of the patient's plan of care and does not replace the medically necessary in-person visits as ordered. CMS is also allowing home health agencies to use telemedicine technologies or upon a review of the patients' records, to perform initial assessments and to make determinations of homebound status for patients.

Homebound definition: The definition of what constitutes a homebound person has been temporarily amended to include patients who have been advised by their physician not to leave their home because of a confirmed or suspected diagnosis of COVID-19 or if the patient's condition makes places them at greater risk of contracting COVID-19. Patients who are deemed homebound under this definition will be eligible to receive skilled services under the Medicare home health benefit.

OASIS Submission: Outcome and Assessment Information Set (OASIS) reporting, which is mandated in the Medicare regulations, has been relaxed extending the 5-day completion requirement for comprehensive assessments and is permitting delayed submission of the 30-day OASIS submission requirement. CMS will still require that patients have an assessment to determine and appropriately meet patient care needs.

Ordering Care, Certifying and Recertifying Patient Eligibility: HHS will exercise enforcement discretion with regards to regulatory requirements that only physicians provide and sign orders, plans of care and certify/recertify patients' for home health agencies to be eligible to receive reimbursement. Under the temporary new guidelines, nurse practitioners, clinical nurse specialists or physician assistants working for a physician, and operating within applicable state law and their scope of license, may (1) order home health services, (2) establish and periodically review a plan of care for home health services and (3) certify and recertify that the patient is eligible for Medicare home health services. Medicare regulations will now also allow non-physician practitioners to order medical equipment, supplies, and certain therapies subject to state law scope of license limitations.



Waived Supervision: The temporary guidance now waives the requirement that a nurse conduct an on-site visit every two weeks, and further temporarily waives the requirement for a nurse or other professional to conduct onsite visit every two weeks, to evaluate whether aides assigned to perform home care services to ensure that the services are being performed consistent with the care plan.

Additional guidance regarding CMS waivers and flexibilities may be found at <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>

For any other questions specific to home care, Ruskin Moscou Faltischek, PC is here to help. Please contact

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