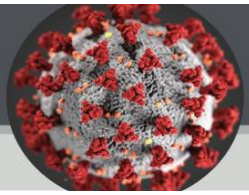

CMS COVID-19 Testing Requirements for Nursing Homes:
FREQUENTLY ASKED QUESTIONS
September 2, 2020

CMS has issued a new rule requiring nursing homes to test staff and residents for COVID-19. The rule also requires laboratories conducting COVID-19 testing – including nursing homes that conduct point-of-care antigen testing – to report patient-level results of those tests on a daily basis. CMS issued two memos that give detailed guidance about implementation of these requirements: QSO-20-38-NH: Facility Testing Requirements and Revised COVID-19 Focused Survey Tool, and QSO-20-37-CLIA,NH: Requirements for Reporting of SARS-CoV-2 Test Results by (CLIA) Laboratories.

This resource provides answers to common questions about the new requirements and reflects our current understanding as of the revision date above. There are many issues where we are still seeking guidance on your behalf, and we will revise and expand this document as we obtain more information.

General Questions

When is the rule effective?
The rule took effect on 09/02/2020. CMS published the final rule in the Federal Register on that date.

Does the CMS rule apply to assisted living? Does MDH intend to extend it to assisted living?
No. The rule applies only to federally-certified nursing homes. We have not heard that MDH intends to extend it to housing with services / assisted living settings.

Survey & Enforcement

Will the MN Department of Health begin enforcing the rule immediately after the Sept. 2? Can facilities expect enforcement without lead time?
Facilities must assume MDH may issue citations at any time after the effective date and prepare now for implementation of the rule, including the routine testing of staff. MDH has not indicated that lead time or a grace period will be provided. See also the question below concerning lab turnaround times.

Testing of Facility Staff

Does facility staff include only direct care staff or all staff? For example, would the CFO or HR director need to be tested?
The definition of facility staff in QSO 20-38-NH does not limit the requirement to direct care staff, so at this time we read the rule to require testing of all staff, regardless of position.

If a staff person works exclusively from a remote office or from home and does not enter the facility, does s/he have to be tested?

The definition of facility staff in QSO 20-38-NH does not identify an exception for employees who work offsite, so at this time we read the rule to include all staff.

Are Essential Caregivers considered "facility staff" according to the CMS definition?

We don't know yet. Given the breadth of the CMS definition of facility staff, it appears that Essential Caregivers could be included. However, the definition says "employees, consultants, contractors, volunteers, and caregivers" who provide care and services to residents on behalf of the facility, which raises a question. We have asked MDH for written guidance on this question.

How do you suggest we manage the documentation of outside provider testing?

To manage documentation for outside providers and contractors, please reach out to the agency and ask about their testing process including testing frequency. MDH tells us the outside agency must test on the same schedule (e.g. 2x/week, weekly, or monthly) as the LTC setting. If they do, the agency should send you test results. If they will not send you test results, they will need to send a written statement indicating their testing frequency, the employee(s) tested, and the outcome of those tests. If your testing frequency changes, you should continue to verify with the outside agency / contractor they continue testing with the same frequency as the LTC setting.

If the outside agency/contractor is not testing on the same frequency as the LTC setting, you can include them in your testing process, should you choose. Or, if able, you can make arrangements to provide those services to the resident.

How do I find the Positivity Rate that determines the frequency of routine staff testing?

CMS is posting positivity rate information on its COVID-19 Nursing Home Data webpage, and they will update the information weekly. We have prepared this Tip Sheet: Determining Covid-19 Positivity Rate In Your County (08/31/20) to assist members in locating that data.

If the Rule is effective as of 9/2/20, can we wait until 9/16/20 (2 weeks) to check the positivity rate?

We recommend that facilities check the positivity rate beginning September 7, and check it at least every other week after that.

If we are in a situation of only needing to test monthly, can that first testing date be anytime in September?

In that situation, completing testing of all facility staff by the end of September would meet the requirement of the new rule. But note we are still working to understand MDH's survey expectations, and we would advise facilities to have the groundwork laid in advance, such as having a testing plan and policy in place that reflects the new requirements, having a lab arrangement established, and testing dates identified as soon as possible – in the event a survey team enters your building in early September

LABORATORY ISSUES

What do we do if our laboratory can't meet a 48-hour turnaround time?

If the 48-hour turn-around time cannot be met due to community testing supply shortages, limited access or inability of laboratories to process tests within 48 hours, the facility should have documentation of its efforts to obtain quick turnaround test results with the identified laboratory or laboratories and contact with the local and state health departments. Among other issues, facilities should document the timely

collection of specimens and record the date/time at which the specimens were delivered to the lab (e.g. transferred to a courier, etc.).

Does the new requirement to report lab results apply to all tests or only to tests a facility conducts using a point of care antigen testing machine?

The laboratory reporting requirement applies only when facilities run COVID-19 antigen tests on site. In that scenario, the facility is taking on the responsibilities of a laboratory and must report every antigen test conducted and its results, both positive and negative to MDH within 24 hours. Note: reporting antigen test results does not replace responsibility to report clinical information about COVID-19 cases (e.g. through REDCap) as facilities have done since the start of the pandemic.

Does reporting positive lab results to MDH take the place of reporting positive cases to the National Healthcare Safety Network?

No. Nursing homes must also continue reporting COVID-19 data directly to CDC through the National Healthcare Safety Network (NHSN) system on a weekly basis. That data is not patient-specific lab results but facility-level data with aggregate numbers of positive cases and so forth. CDC recently update its Resident Impact and Facility Capacity data form to include information relating to antigen testing, but this is a separate and on-going reporting requirement.

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