

Draft: July 17, 2020

This resource captures questions members have raised about the [Essential Caregiver Guidance for Long-term Care Facilities](#) released July 10 by the Minnesota Department of Health. We have submitted these draft questions and answers to MDH with the request that the Department issue a written Q&A to supplement its initial guidance. This reflects our understanding of the issues as of the date above, and we will update and/or correct these answers as MDH provides additional information.

GENERAL

1. **Does the concept of essential caregiver visits apply to both nursing facilities and assisted living communities?**
 - A. Yes. It applies to both long-term care settings.

2. **Is my long-term care setting required to implement an essential caregiver program?**
 - A. No. Long-term care settings are not required to implement an essential caregiver program. The guidance released by MDH on 7-10-2020 is simply guidance *permitting* settings to create an essential caregiver program.

3. **My long-term care setting has worked hard at keeping our facility COVID-free, or we are now considered COVID-free, as it has been more than 28 days since we had an exposure. As a result, we have decided allowing essential caregivers into the building creates too high of a risk of introducing or re-introducing COVID into our building, thus we are not going to implement an essential caregiver program at this time. Do we need to document that decision?**
 - A. Yes. You should document and communicate your rationale (e.g. factors affecting risk and safety) for not implementing an essential caregiver program at this time. This will help you better respond to questions from residents, family members, the press, surveyors, and the LTC Ombudsman. Include the ways in which you are addressing resident's needs and rights through other mechanisms, such as virtual/technology-supported visits, window visits, outdoor visits, and compassionate care visits. If there are measurements or thresholds you are comparing against as the basis for when you **would implement an essential caregiver program** (e.g. status of COVID cases in your county), include that information too.

4. **If we choose to implement an essential caregiver program, do we have to launch on July 25 or can we launch at a later date?**
 - A. You may launch a program later than July 25. For example, an organization that intends to implement a program may take additional time, if needed, to develop its policies and procedures; and an organization that has completed its policies and procedures by July 25 may elect not to implement the program until a later date based on key factors it identifies (such as the rate of COVID transmission in the facility's community). It is recommended that organizations communicate clearly with families about your process, intentions and timeline.

5. **Can I implement an essential caregiver visit program *before* July 25, 2020?**
 - A. Yes – if you have all your policies, procedures, and communications in place to implement an effective program.

6. **What must I have in place by July 25, 2020?**
 - A. If you intend to implement an essential caregiver program, you should have policies in place and prepare for implementation of the program. If you do not intend to implement an essential caregiver program at this time, it is suggested you document your rationale for not implementing an essential caregiver program at this time. See Question 3.

7. **Can a COVID-19 positive resident have essential caregiver visits?**
 - A. No. The only exception would be for compassionate care visits.

8. **Can a newly admitted resident in their 14-day quarantine/observation period have essential caregiver visits?**
 - A. No. The only exception would be for compassionate care visits.

9. **If we implement an essential caregiver program and our facility or general community experiences a COVID-19 outbreak, will we be permitted to suspend the essential caregiver program (not just restrict visits, as described in the MDH guidance for a given resident with COVID/ in quarantine) until the outbreak is resolved?**
 - A. If suspension is in the best interest of your facility, yes, you can suspend for a period of time and then resume. For example, if you suspend due to an outbreak in your facility, consider waiting to resume essential caregiver visits until you have gone 28 days with no COVID-19 exposures. A facility could also identify other factors that would trigger a suspension, such as a shortage of PPE. Include these issues and factors in your policies and procedures.

DESIGNATING THE ESSENTIAL CAREGIVER

10. How does my facility determine who is an essential caregiver?

- A. The guidance states:
 - 1. Facilities electing to establish essential caregiver programs must establish policies and procedures for how to designate an essential caregiver.
 - 2. The *resident must be consulted about his/her wishes to determine who to designate as an essential caregiver*. Note: not all residents may NEED an essential caregiver.
 - 3. Consider the following as potential essential caregivers: family members, outside caregivers, friends, or volunteer *who provided regular care and support to the resident prior to the pandemic*.

11. Can a resident designate more than one essential caregiver? Is there a limit on how many there can be?

- A. The guidance states facility staff should work cooperatively with the resident and family to work out a schedule to accommodate multiple essential caregivers. The guidance does not establish a limit, and facilities may take a case-by-case approach to these unique situations, considering such factors as the resident's needs, the importance from a safety standpoint of limiting the total number of individuals who enter the facility, or the ability of the facility to schedule and screen essential caregivers.

12. Can an individual serve as the designated essential caregiver for more than one of our residents/clients?

- A. There is nothing in the MDH guidance that would prohibit this. However, the organization should have a clear policy about what infection prevention protocols the essential caregiver must follow when transitioning from serving one resident to serving another, and should educate the essential caregiver about those protocols.

13. Is there an age requirement or limit for the essential caregiver?

- A. The facility could certainly include an age restriction in their policy; it would be rare for an essential caregiver, if defined narrowly, to be someone who has provided essential cares prior to the pandemic, to be a child.

14. Is my facility required to assess each resident regarding the applicability of an essential caregiver?

- A. While the guidance does not require such assessments, an assessment would most likely be an element in determining if an essential caregiver exists for a resident and if the resident would benefit from an essential caregiver. You will likely want to document in the resident's record, at a minimum, the determination that an essential caregiver will/will not be "assigned" to the resident.

15. **As a best practice, what are MDH’s expectations about a resident assessment process before granting an essential caregiver visit?**
- A. How to determine who should have an essential caregiver should be part of provider’s policy and procedures—setting up the criteria. It would be a good idea for facilities to get input from families/residents into their policy development.
16. **Can the facility deny access of a requested essential caregiver if they are determined to be a hazard to the resident or the facility by the failure to conform to the facility requirements?**
- A. If your policy includes language that there are specific requirements the essential caregiver must follow (such as screening, use of PPE, abiding by the schedule, only visiting the resident for whom they are designated, maintaining distance from other residents and staff), and the essential caregiver does not follow them, you can deny access. This assumes your policy also includes a statement that violations of the requirements could be a reason for discontinuation of the visitation rights. The MDH guidance states a facility may restrict or revoke essential caregiver status if the essential caregiver fails to follow social distancing, use of PPE, or other COVID-19 related rules of the facility. Prior to restriction/revocation, the facility, EC, and resident should discuss in attempt to mediate the concerns.
17. **What happens if the family wants to designate someone other than the individual identified by the resident?**
- A. This goes against both the language and intent in the guidance that the resident must be consulted and the residents may express a desire to designate more than one. Person-centered principles would come into play, meaning it would be the resident’s choice.
18. **What should we do if family members have a dispute about who gets to be the Essential Caregiver?**
- A. The guidance states that the resident should be consulted about their wishes to determine whom to designate as the essential caregiver. If the resident has the capacity to designate the individual, his or her wishes should be respected. If the resident is unable to make the decision, or is uncertain or uncomfortable about choosing, you could work with the resident’s responsible party, or, if there is a dispute among family members, consider involving your regional Ombudsman.
19. **I have a family member (or friend or volunteer) who insists that he/she is an essential caregiver. But we do not believe this person *provided regular care and support to the resident prior to the pandemic*. What do we do?**
- A. You will need to refer back to your policies and procedures regarding who is determined to be essential caregivers, and balance that with resident rights, risk of complaints being filed, wishes of the resident, and safety.

SCHEDULING AND MANAGING VISITS

20. If I create an essential caregiver program, am I required to provide visit times on the weekend and evenings?

- A. Yes – but you could certainly limit such times to one or two evenings per week (i.e. 5pm – 9pm on Mondays and Wednesdays) and one weekend day per week (i.e. only Saturdays) due to staffing limitations pertaining to checking-in and screening essential caregivers. It is recommended that an organization design its schedule in consultation with residents and essential caregivers.

21. What if anything can we put in our policy for essential caregivers for after-hours visits. Can I put in policy that they assess themselves before entering/have a sheet they sign?

- A. No. That is not recommended as the guidance clearly states you must have an *active screening process* of the essential caregiver before entering the facility, in the same manner as facility staff. There may be other alternatives to essential care visits if after-hours visits are common such as outdoor visits or having limited after hours scheduling for essential caregivers where you could have staff available.

22. The guidance states we must educate essential caregivers on a number of topics. Could that education be conducted via a handout?

- A. Yes. But note the actual checking-in and screening of essential caregivers must be conducted in-person by another individual. There is no guidance on how specifically to educate essential caregivers, however, you will want to be sure they fully understand your policy, your infection control expectations, and the terms for suspension of essential visits.

23. Can we require that essential caregivers schedule or pre-arrange their visits?

- A. Yes. An organization may require the scheduling of visits, and the MDH guidance makes references to scheduling. Address scheduling in your policies and procedures, and communicate the basis and rationale for your approach to scheduling.

24. Can I limit how many essential caregivers are in the facility at any given point in time?

- A. Yes. The MDH guidance states facilities should ensure scheduling of essential caregiver visits considers the numbers of essential caregivers in the building at the same time, and the facility may establish time limits as needed to keep residents safe.

25. Can we limit the length of the visit?

- A. The MDH guidance states that facilities should work with the resident and essential caregiver to identify a schedule of up to three hours per day, or until caregiving tasks are completed, for the essential caregiver to be in the facility. It also indicates that facilities should ensure scheduling of essential caregiver visits

considers the numbers of essential caregivers in the building at the same time. The facility may establish time limits as needed to implement the program safely. A facility may establish limits, including visit lengths of less than 3 hours, if needed, for example, to accommodate scheduling of visits by other essential caregivers. Address this issue in your policies and procedures, in connection with your safety protocols.

26. Can we limit the frequency of visits (e.g. the number of times per week)?

- A. The MDH guidance states facilities should ensure scheduling of essential caregiver visits considers the numbers of essential caregivers in the building at the same time, and the facility may establish time limits as needed to implement the program safely. A facility may establish reasonable limits on the number of visits per week, if needed, for example, to accommodate scheduling of visits by other essential caregivers. Address this issue in your policies and procedures, in connection with your safety protocols.

27. Can a resident have more than one essential caregiver visit in a day?

- A. This may be clarified or limited by your policies and procedures. If more than one essential caregiver has been identified for a particular resident, an organization may permit multiple visits so long as the aggregate time of the visits does not exceed 3 hours in a given day. Your organization may limit a resident to a single essential caregiver visit on a given day, if you determine that this policy will support the goal of preventing the risk of COVID affecting your setting, considering factors such as the importance from a safety standpoint of limiting the total number of individuals who enter a facility, or the ability of the organization to schedule and screen essential caregivers.

28. We are worried about essential caregivers needing to walk through multiple units/areas to get to the room of their resident. Can I avoid such travel and potential exposure within the facility by designating one or more rooms or areas near the main entrance as our authorized essential caregiver visiting area?

- A. Yes, unless the caregiving provided requires privacy. Note – if such areas are identified, the facility will need to clean and disinfect the area(s) between essential caregiving visits.

29. Are staff required to monitor essential caregiver visits?

- A. The MDH guidance requires facilities to actively *check-in and screen* essential caregivers when they enter the building. The guidance does not otherwise require staff to monitor or supervise visits, however a facility may need to do some monitoring to confirm that essential caregivers are complying with expectations for use of PPE, maintaining social distancing, limiting movement within the building, and so on.

30. The guidance says essential caregivers must wear PPE at the same protection level as our staff. Who is required to provide the PPE to the essential caregiver?

- A. The guidance states the essential caregiver must wear all necessary PPE while in the building (minimally eye protection and face mask). The guidance is neutral on whose responsibility it is to provide the PPE. This will be up to your policy and procedure and your access to adequate supplies of PPE. PPE expectations should be clearly communicated to essential caregivers prior to their arrival at the facility. However, if your facility has received PPE from the State or federal stockpile, at this time we have information from MDH stating the community cannot refuse to provide PPE to essential caregivers. LeadingAge Minnesota is still working with the Department on our concerns about this approach.

31. If we provide PPE to essential caregivers, can we ask them to re-use the PPE?

- A. According to the MDH guidance entitled Contingency Standards of Care for COVID-19, Visitors to non-COVID-19 residents should wear a surgical masks to visitors if supplies allow. If surgical masks are not available, or if you are practicing PPE conservation efforts, a source control mask can be given to the visitor. See MDH guidance on Contingency Standards of Care for COVID-19: Personal Protective Equipment for Congregate Care Settings (<https://www.health.state.mn.us/communities/ep/surge/crisis/ppegrid.pdf>).

32. Are fabric masks OK for essential caregivers to use?

- A. Follow the MDH guidance on Contingency Standards of Care for COVID-19: Personal Protective Equipment for Congregate Care Settings (<https://www.health.state.mn.us/communities/ep/surge/crisis/ppegrid.pdf>).

33. Must essential caregivers remain 6 feet away from the resident during their visits?

- A. The essential caregiver must remain 6 feet away from staff and *other residents* at the facility. The guidance is silent on requiring a 6-foot distance between the resident and essential caregiver during the approved visit. Many caregiving tasks will require a distance of less than 6 feet.

TESTING

34. We thought permitting visitors would not be considered until Point Prevalence Testing of all staff and residents was completed. How does that potential requirement intersect with essential caregivers being permitted to enter the building?

- A. MDH views these as two different issues. Testing most likely will be a required element of modifying visitor restrictions. However, MDH does not consider essential caregiver programs to be a modification of current CMS/MDH visitor restrictions, but rather are an extension of guidance previously issued: window visits, then outdoor visits, and now essential caregiver visits. In addition, not every person wishing to visit should be deemed an essential caregiver.

35. Can the facility mandate the essential caregiver be tested routinely or show evidence of a negative COVID test?
- A. Yes. A facility can require essential caregivers to be tested. MDH has stated that providers choosing to implement testing protocols should address testing arrangements in their policies and procedures, including who pays for any testing.

ENFORCEMENT

36. Will MDH issue a deficiency or licensing order to our setting if we do not implement an essential caregiver program?
- A. No, MDH will not issue a deficiency or licensing order if you do not implement an essential caregiver program. However, there is a potential for MDH to cite a violation of resident rights if individual needs are not being met. See Question 4.
37. Will MDH issue a deficiency or licensing order to our setting if the essential caregiver fails to comply with our protocols, or if the resident acquires COVID as a result of interaction with the essential caregiver?
- A. MDH could issue a citation if it identified during a survey that a facility had not established sufficient infection control practices in its policy for implementation of its essential caregiver program, or had established a sound policy but had not sufficiently implemented the policy (e.g. if you had failed to educate the essential caregiver about infection control protocols).