

Minnesota Department of Health COVID-19
Waivers and Modifications At-A-Glance
08.31.2021

The state Peacetime Emergency ended on July 1, 2021, which started a sixty day countdown for expiration of most Minnesota [Department of Health \(MDH\) COVID-19 waivers or modifications of state laws or regulations](#). What follows is a list of MDH waivers and modifications affecting aging services providers that expired as of August 30. All organizations that had been operating in reliance on one of these waivers must now have transitioned back to normal practice in these areas. The nursing assistant training and competency waiver remains in place (see note below).

Topic	Expiration Date
<p>Modifying Certified Food Protection Manager Credential Renewals</p> <p>MDH temporarily modified the requirements for individuals working in food establishments that are required to renew their Certified Food Protection Manager credential. Under current law, individuals are required to obtain four continuing education credits in food safety before the expiration date of their credential. Course providers have discontinued face-to-face education classes which has limited the availability of individuals to obtain the continuing education credits. This temporary modification will allow individuals to obtain the continuing education credits within six months after their credential has expired.</p>	<p>July 31, 2021</p>
<p>Waiving Registration Requirements And Maximum Charge Amounts For Supplemental Nursing Services Agency</p> <p>MDH waived statutes that affect state registration requirements and maximum charge amounts for supplemental nursing services agencies (SNSAs). This allows any in-state licensed health facility regulated by MDH, including hospitals among others, to provide temporary staff in other health facilities that serve residents with COVID-19 without having to be registered as an SNSA. In addition, waiving maximum hourly charges for SNSA services in nursing homes allows the State Emergency Operations Center, in consultation with the Department of Human Services Nursing Home Rates and Policy Division, to set new maximum charge amounts for SNSAs when they are providing staff to work in nursing homes that serve residents with COVID-19. These</p>	<p>Aug. 30, 2021</p>

Topic	Expiration Date
changes provide flexibility for health facilities assisting other health facilities in finding staff.	
<p>Waiving Nursing Home Bed Layaway Requirements: MDH waived statutes that affect nursing home facilities' ability to add licensed beds quickly without incurring a financial burden during this pandemic. Specifically, these waivers allow nursing home facilities immediate access to beds, and to use nursing home beds to relocate patients from hospitals or other settings to nursing homes. MDH still requires nursing homes to notify MDH about the bed changes and to ensure adequate and CDC-compliant space to care for COVID-19 residents.</p>	August 30, 2021
<p>Modifying Nursing Home Non-Layaway Bed Requirements</p> <p>MDH modified statutes that affect nursing homes without a layaway bed option, allowing them to quickly add licensed beds without incurring a financial burden. The modification lifts the moratorium on nursing home beds and waives the per-bed licensing fee during the COVID-19 emergency. It allows nursing homes to quickly expand their numbers of beds in order to relocate patients from hospitals or other settings to nursing homes that do not have a layaway bed option. MDH still requires nursing homes to notify MDH about the bed changes and to ensure adequate and CDC-compliant space to care for COVID-19 residents. A condition of this waiver approval would be that newly added nursing home beds be certified for Medicare only and this waiver will not add Medicaid certified beds, assuring that the Medicare benefit is accessed for those dually eligible under both Medicare and Medicaid. COVID-19-affected Medicaid eligible residents without a Medicare benefit can still access the Medicaid service regardless of the bed location on the campus if the nursing facility does not exceed their current Medicaid certified capacity.</p>	August 30, 2021
<p>OHFC/Vulnerable Adults Act</p> <p>MDH temporarily waived or modified certain statutes that affect investigations and enforcement activities for the Vulnerable Adults Act (VAA), such as prioritizing investigations of egregious maltreatment allegations and COVID-19 related complaints only. For more information, see the Office of Health Facility Complaints.</p>	August 30, 2021

Topic	Expiration Date
<p>Home Care Licensing</p> <p>MDH temporarily delayed or modified certain requirements for home care licensing.</p>	<p>Home care licensing activities resumed July 16, 2021</p>
<p>Home Care Survey and Enforcement Activities</p> <p>MDH temporarily delayed or modified certain requirements for home care survey, and enforcement activities, including timeframe requirements concerning correction orders and requests for reconsideration.</p>	<p>August 30, 2021</p>

Nurse Aide Training and Certification

The Centers for Medicare & Medicaid Services (CMS) issued the following blanket waiver:

CMS is waiving the requirements at 42 CFR 483.35(d) (with the exception of 42 CFR 483.35(d)(1)(i)), which require that a SNF and NF may not employ anyone for longer than four months unless they met the training and certification requirements under § 483.35(d). CMS is waiving these requirements to assist in potential staffing shortages seen with the COVID-19 pandemic. To ensure the health and safety of nursing home residents, CMS is not waiving 42 CFR § 483.35(d)(1)(i), which requires facilities to not use any individual working as a nurse aide for more than four months, on a full-time basis, unless that individual is competent to provide nursing and nursing related services. We further note that we are not waiving § 483.35(c), which requires facilities to ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents.

MDH clarified on July 8, 2021, that the related State requirements for nursing assistant training and certification (Minn. Statute, section 144A.61, subdivision 6a) are waived for as long as the CMS 1135 waiver is in effect.

The CMS waiver is still in place, and CMS has not indicated an end date for this waiver.

See [Nursing Assistant Registry](#) to read the MDH clarification and to watch for updates.