



GREATER NEW YORK HEALTH CARE FACILITIES ASSOCIATION

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MEMO 23-05

TO: Administrator, DON, Infection Preventionists, Director of Building Services, Social Work & QA Committee Members

FROM: Mary Gracey- White RN, BSN, QCP Director of Regulatory Compliance and Arlette A Drigpaul, MSN RN Infection Preventionist/Education Coordinator

DATE: May 2, 2023

RE: CMS QSO-23-13: Guidance for the Expiration of the Covid-19 Public Health Emergency and NYSDOH DAL 23-03: Update to Emergency Preparedness Plan

With the federal anticipated Public Health Emergency (PHE) expiration date of May 11, 2023, the following federal and state guidance has been released:

On May 1, 2023, the Centers for Medicare and Medicaid Services (CMS) released **Memorandum QSO-23-13-ALL** ([Guidance for the Expiration of the COVID-19 Public Health Emergency \(PHE\) \(cms.gov\)](https://www.cms.gov/medicare/coverage/policies/2023q1/qso-23-13-all)) with guidance for the expiration of the Public Health Emergency (PHE) on May 11, 2023. Please note that the following waivers under Section 1135 of the Social Security Act will end with the PHE:

- **Resident Roommates and Grouping** - End Date: May 10, 2021
 - **How to prepare:** Review practice/policy to ensure that residents who were cohorted due to a respiratory illness/symptoms were given the opportunity to move back to his/her original room or facility, or to stay in the new room or facility, depending on room availability. The resident's room preference should not be based on payment source.
- **Resident Transfer and Discharge** – End Date: May 10, 2021
 - **How to prepare:** Review policy to ensure that the facility provides advance notification of options relating to transfer/discharge to another facility and that the written notice of transfer/discharge is provided before the transfer or discharge. Ensure that residents who were transferred to a different facility as part of Covid-related cohorting were given the option to move back to the facility or to stay in the new facility, depending on room availability. The resident's preference should not be based on payment source.

- **3-day prior hospitalization** - End Date: May 11, 2023
 - **How to prepare:** Review pre-admission policies and procedures, keeping in mind that all new SNF stays beginning on or after May 12th will require a qualifying hospital stay before Medicare coverage. Additionally, for any new benefit period that begins on or after May 12th, the beneficiary will need to have completed a 60-day wellness period.
- **Pre-Admission Screening and Annual Resident Review (PASARR)** – End Date: May 11, 2023
 - **How to prepare:** Review admission policies and procedures to ensure medical records for residents with a mental illness (MI) or intellectual disability (ID) must include evidence that PASARR Level I pre-screening is completed prior to admission and if the Level I pre-screening is positive, Level II screening is conducted prior to admission to the facility.
- **Nurse Aide Training Competency and Evaluation Programs (NATCEP)** – End Date: May 11, 2023
 - **How to prepare:** Ensure that uncertified nurses' aides working in the facility will have 4 months from the end of the PHE to complete a state approved NATCEP program. In NYS, the waiver expires on Sept 10, 2023.
- **Alcohol-Based Hand Rub Dispensers** - End Date: May 11, 2023
 - **How to prepare:** Evaluate any pertinent policies to ensure that residents and staff are safe as related to Life Safety Code for storage and location of ABHR and dispensers.
- **Requirements for Covid-19 Testing** – End Date: May 11, 2023
 - **How to prepare:** Conduct Covid-19 testing for residents and staff in accordance with accepted national standards, such as CDC recommendations. Failure to follow best practice recommendations will be cited at F880.
- **Requirements for Reporting related to COVID-19** – End date: No end date
 - **How to prepare:** Ensure that facility is reporting Covid-19 vaccine status of residents and staff through NHCN (this requirement is permanent unless additional regulatory action is taken). **The requirement to inform the residents, their representatives and families following the occurrence of either a single confirmed infection of COVID-19 or three or more residents or staff with new-onset of symptoms will no longer be expected by CMS after May 11, 2023.
- **Requirements for Educating about and Offering Residents and Staff the Covid-19 Vaccine**
 - End Date: May 21, 2024
 - **How to prepare:** Continue to educate residents and staff on the Covid-19 vaccine and offer to help them get vaccinated.
- **Focused Infection Control Surveys**
 - As of Fiscal Year 2024, FIC surveys will no longer be required. CMS will continue to make the FIC survey available for states to use at their discretion.

Additionally, on May 1, 2023, NYSDOH released DAL 23-03 [DAL NH 23-03 \(state.ny.us\)](https://www.state.ny.us) to address Pandemic Emergency Plan requirements [dal nh 20-09.pdf \(ny.gov\)](https://www.ny.gov), and notification of residents and/or family/healthcare representatives of the presence of an infection. According to DAL 23-03, nursing homes must:

- Inform residents and authorized family/healthcare representative of those residing in facilities by 5PM the next calendar day following the occurrence of either a single confirmed infection in residents or staff (daily until there are no more new cases).

- Upon a change in a resident's condition, and at least once weekly, update all residents and authorized family members and resident representatives on the number of infections and deaths at the facility.
- Develop a plan for cohorting residents within a facility to reduce transmission of the pandemic disease during an infectious disease outbreak, consistent with guidance issued by CMS or CDC.

Although NYSDOH nursing homes are required to have a pandemic plan, facilities will **only need to deploy the plan during a pandemic declared by the State and/or Federal Government**. After the expiration of the PHE, facilities will have to respond to COVID-19 cases as required by State and federal requirements.

If you have questions, please do not hesitate to contact the Association or the Department at nhinfo@health.ny.gov

Thank you.