



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
PO Box 45600, Olympia, WA 98504-5600

March 25, 2020

Patrick Thrift
Survey Branch Manager
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RE: Section 1135 Waiver during Washington State's COVID-19 Public Health Emergency

Residential Care Services (RCS), a division of the Aging and Long Term Support Administration (AL TSA) in Washington State, writes to request approval for flexibility of conditions of participation for health care facilities. As a result of Secretary Alex Azar's declaration of a public health emergency on January 27, 2020, Washington Governor Inslee's declared public health emergency on February 29, 2020 (Proclamation 20-05, attached), and President Donald Trump's declared public health emergency on March 13, 2020. This request is not limited to specific geographic regions of the state as the spread of the COVID-19 has the potential to affect the entire state, including many skilled nursing facilities/nursing facilities (SNF/NF) and Intermediate Care Facilities for the Intellectually Disabled (ICF/IID). This current request is in addition to the request already sent forward by RCS and the Seattle Regional CMS Office on March 20, 2020.

Brief summary of why waiver is needed:

In this time of national public health emergency, nursing home providers are facing a growing staffing crisis. As resident care needs grow and efforts to prevent and mitigate the spread of the virus intensify, staff members across disciplines and job types continue to be quarantined due to exposure or symptoms, become ill, or are required to stay home to provide child care as schools close or care for ill or frail loved ones. Providers need relief from certain requirements and flexibility to ensure they are able to use every available resources to meet residents' needs in this critical time.

Dispensation is requested until:

We request these waivers and modifications to be retroactive to March 1, 2020, and continue through the period described in Section 1135(e).

Waiver Requests:

- 1. CNA certification, licensure, and testing.** The following waivers are requested:
 - a. The 120-day requirement from date of hire as a nurse aide to being added to the nurse aide registry is waived.

- b. Allow nurse aides who have lapsed their active status on the nurse aide registry to be automatically reinstated, as long as they were in good standing before the lapse.
 - c. Allow current nursing students who have completed at least one clinical rotation to be eligible for hire to provide personal care under the direction of a licensed nurse.
2. **Nursing Assistant Registered:** Authorize nursing facilities to hire Registered Nursing Assistants who are able to provide personal care for residents including but not limited to activities of daily living, infection prevention and control, documentation, and comfort care. Competency for each personal care task would be approved by an RN prior to provision of the care. It also would require them to complete an online training program by a designated organization.
 3. **Dining Support Aide:** Authorize nursing facilities to hire Dining Support Aides who are able to assist residents with meals and dining and also required them to complete an online training program by a designated organization.
 4. **Hiring allowances:** Allow staff from evacuated centers to work in receiving or other centers without usual pre-hire requirements, including but not limited to initial training and background check.
 5. **Relief of additional regulatory requirements relating to the above waiver requests:**
 - a. Waive the following requirements to enable above measures to be used to support provider capacity to meet resident care needs:
 - §483.35(d) Requirement for facility hiring and use of nurse aides.
 - §483.35(d)(2) Non-permanent employees.
 - §483.35(d)(3) Minimum Competency.
 - §483.35(d)(4) Registry verification.
 - §483.35(d)(5) Multi-State registry verification.
 - §483.35(d)(6) Required retraining.
 - §483.35(d)(7) Regular in-service education.
 - §483.95 Training Requirements.

We appreciate your review of our waiver request. Please contact me via email at candace.goehring@dshsh.wa.gov if you need any additional information.

Thank you for your prompt attention in this matter.

Sincerely,



Candace Goehring, Director
Residential Care Services