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SKILLED NURSING UPDATE: CMS ENHANCES SKILLED NURSING VISITATION GUIDANCE – VISITOR TESTING, AIR QUALITY IMPROVEMENTS AND CMP FUNDS AVAILABLE

As questions, concerns and frustration continue for skilled nursing facilities and families on visitation at facilities, CMS released additional recommendations, clarifications and guidance on a host of issues that skilled nursing providers face as they encounter certain visitation scenarios.

On February 2, 2022, CMS updated and added several questions and answers in its December 23, 2021 and January 6, 2022 releases titled "Nursing Home Visitation Frequently Asked Questions (FAQs)" (collectively "Revised CMS FAQs"), all of which are intended to provide clarifications to the revised **memorandum** that the Quality, Safety & Oversight Group at CMS issued on November 12, 2021 titled "Nursing Home Visitation" ("CMS Visitation Memo"), which announced updated visitation standards for nursing homes. Our alerts on prior CMS guidance are **here** and here.

The key revisions and additions in the Revised CMS FAQs include the following.

RECOMMENDATIONS TO REDUCE THE SPREAD OF COVID

CMS emphasized that the facility must permit visitation regardless of the visitor's vaccination status if the visitor does not report COVID-19 symptoms or meet the criteria for quarantine.

CMS is now emphasizing that skilled nursing facilities improve ventilation and air quality.

AIR QUALITY AND VENTILATION

CMS emphasized certain best practices for improving air quality to reduce risks during visitation that a skilled nursing facility may consider related to air quality including:

- Adding ultraviolet germicidal irradiation to the heating ventilation and air conditioning system ("HVAC");
- Avoiding having multiple groups of people or multiple visitors for a resident within small rooms or spaces, designate special visitation areas that are outdoors when practical or in designated large-volume spaces with open windows and/or enhanced ventilation;
- Adding portable room air cleaners with high-efficiency particulate air (HEPA, H-13 or -14) filters to communal areas; and
- Ensuring proper maintenance of HVAC system to ensure maximum outdoor air intake.

WAYS TO IMPROVE AND MANAGE AIR FLOW DURING VISITATION

CMS emphasized certain best practices for improving and managing air flow during visits including implementing the following:

- Using a portable fan placed close to an open window could enable ventilation;
- Activating resident restroom exhaust fans whenever visitors are present;
- Opening windows, even slightly, if practical and will not introduce other hazards; and
- Using ceiling fans at low velocity and potentially in the reverse-flow direction to pull air up toward the ceiling if windows are closed.

CMP FUNDS AVAILABLE FOR ENVIRONMENTAL CHANGES TO REDUCE TRANSMISSION OF COVID-19

CMS announced that skilled nursing facilities may request the use of Civil Money Penalty ("CMP") Reinvestment funds to purchase portable fans and portable room air cleaners with HEPA filters to increase or improve air quality. A maximum use of $3,000 per facility including shipping costs may be requested.

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STATES CAN REQUIRE FACILITIES TO TEST VISITORS AS A CONDITION OF ENTERING THE SKILLED NURSING FACILITY

CMS confirmed that states can require visitors to be tested prior to entry if the skilled nursing facility is able to provide a rapid antigen test, as the visitor is not responsible for obtaining a test. If the skilled nursing facility cannot provide the rapid antigen test, then the visit must occur without a test being performed if the visitor does not report COVID-19 symptoms or meet the criteria for quarantine.

PRACTICAL TAKEAWAYS

- Skilled nursing facilities should apply for the CMP funds to purchase portable fans and portable room air cleaners with HEPA filters to increase or improve air quality.
- Skilled nursing facilities should adopt as many of the listed CMS visitation best practices and document those efforts.
- Skilled nursing facilities need to document all of their efforts taken to facilitate visitation.

If you have questions or would like additional information about this topic, please contact:

- **Sean Fahey** at (317) 977-1472 or **sfahey@hallrender.com**; or
- Your primary Hall Render contact.

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