Federal Issues
Regulatory

CMS Proposes Annual Payment Increases for Providers in FY 2021

Inpatient Rehabilitation Facility: The Centers for Medicare & Medicaid Services issued a proposed rule for the inpatient rehabilitation facility prospective payment system for fiscal year 2021. CMS proposed an increase in net payments of 2.5% ($270 million) relative to FY 2020 payments. The brief rule proposes to permanently amend IRF coverage requirements by removing the post-admission physician evaluation documentation requirement for all IRF discharges, beginning October 1, 2020.

CMS stated that its goal for this proposed change was to reduce the administrative and paperwork burden for both IRFs and its contractors.

In its March 31 interim final rule with comment, the agency implemented a temporary waiver of this particular patient evaluation for the duration of the COVID-19 emergency period.

The rule proposes no changes to the IRF quality reporting program.

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CMS will accept comments on the rule through June 15.

**Why this matters:** This proposed rule follows several others released last week and is issued on an annual basis to reflect payment system updates and other policy changes for the following fiscal year. This year, CMS has acknowledged that the entire health care system is focused on responding to the COVID-19 public health emergency, and thus the majority of provisions in these proposed rules only include changes required by statute for Medicare payment to the various providers.

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### Federal COVID-19 Policy Guidance and Other Developments

CMS has approved 49 emergency waivers, 26 state amendments, 7 COVID-19 related Medicaid Disaster Amendments and the first CHIP COVID-related Disaster Amendment.

CMS announced the postponement of the 2019 benefit year HHS Risk Adjustment Data Validation (HHS-RADV) process to allow individual and small group health insurance issuers and providers to focus on the health and safety of enrollees, participants, and other impacted individuals due to the COVID-19 pandemic. CMS intends to provide future guidance by August of 2020 on the updated timeline for 2019 benefit year HHS-RADV activities planned to begin in 2021.

CMS released guidance to states on the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Frequently Asked Questions (FAQs) address enhanced federal Medicaid funding and other topics during the COVID-19 national emergency.

**Administration Announces Three-phase Plan to Loosen Social Distancing:** President Trump announced guidelines that states and localities can use for easing social distancing restrictions, including criteria for employers, individuals and hospitals. Before beginning a three-phase loosening of social distancing, states or regions would have to meet the following gating criteria:

- **Downward trajectories of influenza-like illnesses and COVID-19-like syndromic cases reported within a 14-day period; and**
- **14 days of downward trajectories of documented cases of positive tests as a percent of total tests within that period (flat or increasing volume of tests).**

Furthermore, hospitals must be able to treat all patients without crisis care and communities must have in place robust testing programs for at-risk health care workers, including emerging antibody testing.
Once the gating criteria is met, communities must monitor for a rebound of cases before moving to other phases. Clinically appropriate elective surgeries can resume in outpatient settings during phase one and on an outpatient and in-patient basis during phase two at facilities that adhere to Centers for Medicare & Medicaid Services guidelines.

Visits to senior care facilities and hospitals cannot resume until communities reach phase three.

**AHA, Others Issue Roadmap for Safely Resuming Elective Surgery:** As the COVID-19 surge wanes in different parts of the country, the American Hospital Association, American College of Surgeons, American Society of Anesthesiologists, and Association of periOperative Registered Nurses released a roadmap for safely resuming elective surgery. The roadmap provides key principles and considerations to guide health care professionals and organizations regarding when and how to resume effective surgery safely, recognizing that readiness for resuming these procedures will vary by geographic location depending on local COVID-19 activity and response resources.

Among other areas, the roadmap discusses not resuming elective procedures until there has been a sustained reduction in the rate of new COVID-19 cases in the area for at least 14 days; forming a committee to develop a surgery prioritization policy; adopting COVID-19-informed policies for the five phases of surgical care, from preoperative to post-discharge care planning; and collecting and assessing COVID-19-related data that will be used to frequently re-evaluate and reassess policies and procedures.

**CMS Issues Guidelines for Hospitals on Resuming Non-COVID-19 Care:** The Centers for Medicare & Medicaid Services issued updated guidance on providing essential non-COVID-19 care to patients without symptoms of COVID-19 in regions with low and stable incidence of the virus. This is part of Phase one in the Administration’s Guidelines for Opening Up America Again.

The recommendations update earlier guidance provided by CMS on limiting non-essential surgeries and medical procedures. The new CMS guidelines indicate that when a state has passed the gating criteria articulated in the Administration’s plan for opening America, they can proceed to Phase one, in which health care organizations can restart care postponed due to COVID-19 in coordination with local and state public health officials.

In considering resuming such services, CMS said hospitals should review the availability of personal protective equipment and other supplies, along with workforce availability, facility readiness, testing capacity and post-acute care capacity in the area.

**HHS, FEMA Compile COVID-19 Best Practices:** The Department of Health and Human Services created a page with resources for health care planning and infectious disease, among others. The Federal Emergency Management Agency’s Healthcare Resilience Task Force also recently released a package of COVID-19 resources specifically for hospitals. Further, FEMA shared a website that compiles lessons learned from around the country, including for medical practitioners.

**FDA Issues Convalescent Plasma Treatment Update, New Webpage:** The Food and Drug Administration encouraged those who have recovered from COVID-19 to donate plasma for the creation of convalescent plasma, an antibody-rich investigational therapy that may help others fight the disease. The agency also launched a web resource to help guide recovered COVID-19 patients to local blood or plasma-collection centers.
FDA Greenlights Telethermographic Systems’ Use for COVID-19 Triage: The Food and Drug Administration issued guidance expanding the use of telethermographic systems for triage use during the public health crisis. Because fever is a common symptom of the virus, FDA says that telethermographic systems, which convert infrared radiation into body temperature measurement, can be deployed to use for initial triage at high-traffic areas, such as airports, businesses, warehouses and factories, as well as in settings where thermometers may be in short supply.

CDC Posts COVID-19 Training for Health Professionals: The Centers for Disease Control and Prevention has collated in one location training materials for health care professionals during the COVID-19 emergency, including webinars, videos and online courses. Topics include clinical care and infection control, personal protective equipment, non-pharmaceutical interventions to slow the spread, and emergency preparedness and response.

FEMA Releases COVID-19 Resource for Hospitals: The FEMA Healthcare Resilience Task Force has released a COVID-19 Hospital Resource Package, which offers tools to help hospitals prepare for and respond to the pandemic. Topics range from hospital surge and crisis standards of care to workforce protection, regulatory relief and telemedicine, with links to federal and non-federal guidance and resources.

FDA Expands COVID-19 Testing Options Via Spun Synthetic Swabs: The Food and Drug Administration announced that spun synthetic swabs made from materials like polyester can be used for test patients for COVID-19. FDA based its decision on a clinical investigation that revealed that synthetic swabs can be used for front-of-the-nose testing, which is considered more comfortable for patients, allows for self-testing and limits health care providers’ exposure. To support this declaration, U.S. Cotton says it will produce these new polyester swabs in large quantities to help meet coronavirus diagnostic testing needs.

Agencies Partner with Private Sector to Speed COVID-19 Vaccine, Treatments: The Department of Health and Human Services will partner with more than a dozen biopharmaceutical companies and the European Medicines Agency to prioritize vaccine and drug candidates, streamline clinical trials and coordinate regulatory processes to respond to the pandemic, the National Institutes of Health announced. In addition to NIH, HHS participants in the Accelerating COVID-19 Therapeutic Interventions and Vaccines partnership include the Office of the Assistant Secretary for Preparedness and Response, Centers for Disease Control and Prevention and Food and Drug Administration.

New HCPCS Codes Created for High-throughput Tests: The Centers for Medicare & Medicaid Services has created two new Healthcare Common Procedure Coding System codes (U0003 and U0004) to bill under Medicare Part B for clinical diagnostic laboratory tests that use high-throughput technologies to detect and diagnose the novel coronavirus.

CMS Issues FAQs on Legislations’ COVID-19 Medicaid/CHIP Provisions: The Centers for Medicare & Medicaid Services last week issued guidance implementing legislative provisions specific to enhanced federal funding for Medicaid and Children’s Health Insurance Program, as well as a new state Medicaid option to cover COVID-19 diagnostic testing and services for the uninsured, as authorized by the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security Act. The guidance is in the form of frequently asked questions.

The funding provides flexibility to 581 programs across the country that are working to prevent or minimize the COVID-19 pandemic’s impact on people living with HIV, including extending operational hours, increasing staffing hours, purchasing additional equipment, enhancing workforce training and capacity development, and providing critical services during this pandemic, such as home-delivered meals, emergency housing and transportation.

HHS Adds Ventilator Deal with GE: The Department of Health and Human Services reached an agreement with General Electric to produce 50,000 ventilators by July 13. The contract is rated under the Defense Production Act, meaning GE, which is in a partnership with Ford, must accept and prioritize the government’s procurement order.

FDA Actions Authorize Serology Tests, N95 Sterilization Process: The Food and Drug Administration last week issued a pair of emergency use authorizations for serology tests to detect for the presence of coronavirus antibodies. The EUAs were issued to Ortho-Clinical Diagnostics, Inc. for its VITROS Immunodiagnostic Products Anti-SARS-CoV-2 Total Reagent Pack and Chembio Diagnostic Systems, Inc. for its DPP COVID-19 IgM/IgG System.

FDA also authorized the emergency use of Stryker Instrument’s Sterizone VP4 Sterilizer1 N95 Respirator Decontamination Cycle for single reuse by health care personnel to prevent exposure to pathogenic biological airborne particulates when there are insufficient supplies of face-filtering respirators.

FDA Eases Compounding Policy for Hospitalized COVID-19 Patients: During the COVID-19 emergency, the Food and Drug Administration will not take action in certain circumstances against a registered outsourcing facility for compounding certain drugs to treat hospitalized patients with COVID-19; using a bulk drug substance not on the 503B bulk list; or not meeting current good manufacturing process requirements, the agency announced.


These provisions include for COVID-19 patients a Medicare add-on payment of 20%, for both rural and urban hospitals; a waiver of the long-term care hospital site-neutral policy; a waiver of the LTCH “50% Rule”; and a waiver of the inpatient rehabilitation facility “3-hour Rule.”

HHS Opens CARES Act Emergency Fund Attestation Portal: Health care providers who receive funds from the $100 billion Public Health and Social Services Emergency Fund must within 30 days of receipt attest to receiving the funds and agree to the terms and conditions of payment. The Department of Health and Human Services on April 10 began distributing the first $30 billion from the fund, created by the Coronavirus Aid, Relief, and Economic Security Act to reimburse providers for health care-related expenses or lost revenues not otherwise reimbursed that are directly attributable to COVID-19.

CDC Reports Dramatic Hepatitis C Increases, Revises Screening Recommendations: The Centers for Disease Control and Prevention recently reported a tripling of hepatitis C cases over the past decade, with
the highest rate of infections occurring in younger adults between 20-39 years old. **CDC’s study** revealed that because hepatitis C is largely asymptomatic, nearly 40% of infected adults were unaware that they were carriers. The agency now recommends testing:

- Every adult at least once;
- Pregnant women during every pregnancy; and
- Everyone with ongoing risk factors regularly.

**HHS Partners to Develop COVID-19 Immunotherapies:** Collaborating with non-governmental organizations, the Department of Health and Human Services is working to develop convalescent plasma and hyperimmune globulin **immunotherapies** for COVID-19 patients. Both products use blood plasma from recovered patients, which contain SARS-CoV-2 antibodies that could stimulate the immune system for COVID-19 patients. Patients who have recovered from COVID-19 can [learn more about donating plasma here](#).

**FDA Addresses Hospitals' Utilizations of Home-use Blood Glucose Meters:** The Food and Drug Administration released an **FAQ** on hospitals' utilization of home-use blood glucose meters during the COVID-19 health crisis. The document addresses patients’ self-testing and diabetic patients’ use of their own personal blood glucose monitors at the hospital. It also explicitly forbids multiple patients' use of individual blood-glucose meters.

**CMS 3-day Waiver Also Applies to Swing-bed Care:** The Centers for Medicare & Medicaid Services clarified that the agency is waiving the Medicare coverage requirement for a three-day prior hospitalization requirement for both skilled nursing facilities and swing-bed services furnished by critical access hospitals and rural swing-bed hospitals, the agency says in a [new COVID-19 FAQ](#) on Medicare billing, specifically question 4.

**HHS to Increase Strategic National Stockpile's Ventilator Count:** The Department of Health and Human Services announced seven new ventilator production contracts to boost national availability. Five of the contracts are rated under the Defense Production Act, meaning they must be accepted and prioritized by the contractors. HHS says the contracted companies agreed to supply 6,190 ventilators for the Strategic National Stockpile by May 8 and an additional 29,510 by June 1, with an overall goal of providing 137,431 new units by the end of the year.

**Medicare Nearly Doubles Payment for High-throughput Diagnostic Tests:** Medicare will increase payment for certain "high-throughput" COVID-19 diagnostic tests to $100 to expand testing capacity and speed results during the public health emergency, the Centers for Medicare & Medicaid Services announced. The tests can process more than 200 specimens a day but require specially trained technicians and more time-intensive processes to assure quality.

CMS expects the payment increase to allow laboratories to expand testing, particularly to vulnerable nursing home patients. Medicare administrative contractors previously paid about $51 for these clinical laboratory diagnostic tests under Medicare Part B.

**CDC Reports on Health Care Worker COVID-19 Cases:** The Centers for Disease Control and Prevention reported an estimated 9,282 confirmed COVID-19 cases in U.S. health care workers between February 12 and April 9, representing 19% of U.S. cases for which occupational status was available. Among cases reporting age, 38% had an underlying health condition, 8-10% were hospitalized and 0.3-0.6% died. The median age was 42 and 73% were female, likely reflecting the workforce distribution, CDC
said. Among 121 health care workers in Solano County, California, exposed to a patient with unrecognized COVID-19, three tested positive for the virus, all of whom had unprotected patient contact, according to a separate CDC report.

To protect health care workers caring for patients with suspected or confirmed COVID-19, health care facilities should continue to follow CDC, state and local infection control and guidance for personal protective equipment, the authors said.

AHA President, Health System Leaders Participate in White House Announcement of Hospital-led Initiative to Distribute Ventilators to High-need Areas

The American Hospital Association joined hospital and health system leaders at a White House event to announce the Dynamic Ventilator Reserve, a public-private online initiative to track and help distribute available ventilators and associated supplies to high-need areas of the country.

A collaborative voluntary effort led by a group of U.S. hospitals and health systems has created an online inventory of ventilators and associated supplies, such as tubing and filters, to support the overall needs of combatting the COVID-19 pandemic. Hospitals and health systems will input into the database available equipment that they are able to lend to others in the country. Providers are then able to access this virtual inventory as their need for ventilators increases.

App Links PPE Donors with Potential Recipients: The American Hospital Association has partnered with Microsoft, Kaiser Permanente, consulting firm Kearney, Merit Solutions and UPS to launch Protecting People Everywhere, an app-powered initiative that matches individuals and organizations donating personal protective equipment with local hospitals based on need. The HealthEquip app also will track PPE donations and manage shipping through UPS to hospitals. The AHA is sharing the app with hospitals through its 100 Million Mask Challenge. Hospitals and donors can register their PPE needs and supplies.

CDC Updates COVID-19 Infection Control Guidance -- The Centers for Disease Control and Prevention updated its infection prevention and control recommendations for patients with suspected or confirmed COVID-19 in health care settings. Among specific changes, CDC said health care facilities should consider requiring everyone entering the facility to wear a cloth face covering to address the risk of asymptomatic and pre-symptomatic transmission; screen everyone for fever and COVID-19 symptoms before they enter; and consider foregoing contract tracing for exposures and instead screen for fever and symptoms before each shift.


The guidance, which is in the form of FAQs, implements provisions from the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security Act. The guidance principally implements the requirement for group health plans and group and individual health insurance to cover both certain diagnostic testing and certain related items and services provided during a medical visit with no cost sharing.

Among other provisions, the guidance notes that diagnostic testing providers, including both hospital and commercial laboratories, must post the cash prices for their COVID-19 testing services on a public website.
FDA Authorizes Infusion Pump to Deliver Nebulized Medicine -- The Food and Drug Administration authorized emergency use of an infusion pump system to deliver nebulized medications to patients with or suspected of having COVID-19, and reduce health care provider exposure to the patient.

CMS Releases More Guidance on COVID-19 LTC Transfers -- The Centers for Medicare & Medicaid Services issued additional guidance on transferring patients between long-term care facilities, which include skilled nursing facilities and nursing homes, in order to mitigate community spread of COVID-19. The guidance addresses several patient transfer scenarios and cohorting approaches. It also clarifies that transfers between two certified facilities are allowed without additional approval, while transfers to non-certified sites require state survey agency approval. In addition, the guidance builds upon prior guidance on working with local and state leaders to, where feasible, identify and designate facilities for separate patients and staffing teams based on COVID-19 status.

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- CMS announced the postponement of the 2019 benefit year HHS Risk Adjustment Data Validation (HHS-RADV) process to allow individual and small group health insurance issuers and providers to focus on the health and safety of enrollees, participants, and other impacted individuals due to the COVID-19 pandemic. CMS intends to provide future guidance by August of 2020 on the updated timeline for 2019 benefit year HHS-RADV activities planned to begin in 2021.
- CMS also released guidance to states on the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Frequently Asked Questions (FAQs) address enhanced federal Medicaid funding and other topics during the COVID-19 national emergency.

Tri-Agencies Publish FAQs for Commercial Plans on COVID-19 Coverage Issues

The Departments of Labor, Health and Human Services and the Treasury (the Tri-Agencies) released frequently asked questions (FAQs) regarding the implementation of the Families First Coronavirus Response Act (the FFCRA), the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), and other health coverage issues related to COVID-19.

The FAQs include clarification on a number of issues including COVID-19 services that must be covered; existing requirements related to mid-year plan changes; and, the expansion of telehealth services. Notable items include:

- **Serological Tests**: Serological tests are included in the coverage requirements.
- **Test-Related Services and Items**: Services ordered by a clinician, such as a flu test or other blood tests, would be included in the requirements if the visit results in an “an order for, or the administration of, COVID-19 diagnostic testing.”
- **Mid-Year Plan Change Notification Requirements**: The Tri-Agencies will not take enforcement action against plans that modify products to provide greater coverage related to testing or treatment for COVID-19. The change applies to existing rules, including those regarding summary of benefits and coverage documents; ERISA plan material modifications; and mid-year modifications of coverage.
• **Telehealth and Other Remote Care**: Issuers and plans are encouraged to promote telehealth and other remote care services; address the treatment of telehealth on high-deductible health plans (HDHPs); and provide the same non-enforcement policy addressed for mid-year benefit changes to promote telehealth.

### State Issues

**Delaware**

Regulatory

**Governor Carney Requires Stricter Measures in Long-Term Care Facilities to Fight COVID-19**

Governor John Carney issued the [eleventh modification](#) to his State of Emergency declaration, requiring stricter guidelines to prevent COVID-19 infections in nursing facilities and other long-term care facilities. The updated emergency order requires nursing facilities to immediately ensure they are in full compliance with the Public Health Authority guidance related to COVID-19. Nursing facilities must check Division of Public Health (DPH) guidance at least daily to ensure they are complying with the most current guidance and adjust their policies, procedures, and protocols accordingly.

Governor Carney’s order requires all nursing facilities in Delaware to immediately:

- Establish a cohort of staff who are assigned to care for known or suspected COVID-19 residents.
- Designate a room, unit, or floor of the nursing facility as a separate observation area where newly-admitted and re-admitted residents are kept for 14 days on, while being observed every shift for signs and symptoms of COVID-19.
- Designate a room, unit, or floor of the nursing facility to care for residents with known or suspected COVID-19.

Returning residents to their nursing facility remains a priority, according to Tuesday’s order. Residents who have been admitted or seen at a hospital for COVID-19 shall be allowed to return to the nursing facility – as long as the facility follows approved measures from the Division of Public Health (DPH) and Centers for Disease Control and Prevention (CDC). If nursing facility residents must temporarily go to other facilities, every effort must be made to transfer the residents back to their original facility as soon as possible. A negative COVID-19 test shall not be required prior to return to a nursing facility.

Governor Carney’s State of Emergency declaration and its eleven modifications – including the [stay-at-home order](#) for Delawareans and [mandatory 14-day quarantine for out-of-state travelers](#) – remain in effect and carry the full force and effect of law.

### State Issues

**Pennsylvania**

Legislative
General Assembly Session Continues to Highlight COVID-19 and the Impact on State’s Economy

Next week’s legislative session will continue to see the Senate and House consider proposals addressing the COVID-19 pandemic and its impact on closures of businesses considered to be non-essential.

With telehealth increasingly the method of health care delivery during the COVID-19 pandemic, the Senate has been focusing attention on Senate Bill 857. The bill was passed by the House last fall and now awaits a concurrence vote in the Senate.

PHC4 Reauthorization, COVID-19 Bills Await Action by Governor Tom Wolf

Following action by the House and Senate, two bills have been sent to Governor Tom Wolf for his consideration and signature:

Senate Bill 841 would reauthorize the Pennsylvania Health Care Cost Containment Council (PHC4) as an independent government entity for 10 years. The bill also does the following:

- Requires PHC4 to report on the COVID-19 disaster emergency and how it impacts the finances of hospitals and other health care facilities and qualification for federal and state assistance;
- Establish tax relief related to COVID-19;
- Provide educational tax credits related to COVID-19 to businesses;
- Authorizes the Department of State to permit remote notarization procedures;
- Permit local government meetings and other business via telecommunication until the termination of the COVID-19 emergency; and
- Provide for contract negotiations of school contract service providers during the period of schools' closure.

Senate Bill 613 would require all agencies with employees or contractors that have access to federal tax information to comply with enhanced security procedures, including a criminal background check, conducted by the Pennsylvania State Police. The legislation also sets forth the following COVID-19 provisions:

- Requires the Governor to develop and implement a plan to be implemented during the current COVID-19 crisis for businesses in the Commonwealth based on recommendations from the CDC, including the most recent March 28, 2020 CISA list provided by the U.S. Department of Homeland Security;
- Any business that complies with the mitigation plan and is on the most recent March 28, 2020 CISA list would be allowed to operate in the Commonwealth;
- Requires the Governor to create a mitigation plan and publish it on the Department of Community and Economic Development's (DCED) website within seven (7) days of the Governor signing the bill; and
- Allows each county to create its own plan to reopen local economies.

Governor Wolf has 10 days to act on the measures. He and Secretary of Health Rachel Levine continue to warn against reopening businesses too early as it will reverse infection numbers, further delaying the reopening the state’s economy. GOP lawmakers do not have enough votes to override a gubernatorial veto.
House Resolution Urges Congress to Add Hearing Aid Benefit to Medicare, Address Reliance on Foreign Manufacturing of Prescription Drugs

The House voted unanimously to approve a resolution to expand Medicare coverage. House Resolution 628 urges Congress to expand Medicare coverage to include hearing aids. The measure also urges the United States to cease dependency on foreign countries for pharmaceutical manufacturing, requires transparency by the U.S Food and Drug Administration (FDA) to create a registry of all drugs, and requires companies to list all active ingredients and their countries of origin on the labels.

State Issues

Pennsylvania

Regulatory

New Order Establishes Worker Safety Requirements to Prevent COVID-19

Department of Health Secretary Rachel Levine issued on April 15 an Order to protect workers who are employed at businesses authorized to maintain in-person operations during the COVID-19 pandemic. The Order sets forth guidelines to help employees maintain social distancing during work as well as sanitary requirements when notified of exposure to COVID-19. The Order, which takes effect on Sunday, April 19 at 8:00 p.m., includes enforcement action, which could include citations, fines, or license suspensions.

Governor Wolf also recommends that Pennsylvanians wear masks any time they leave their homes for life-sustaining reasons. The order also includes the following requirements:

- Provide masks for employees to wear during their time at the business, and make it a mandatory requirement while at the work site, except to the extent an employee is using break time to eat or drink, in accordance with the guidance from the Department of Health and the CDC. Employers may approve masks obtained or made by employees in accordance with this guidance;
- Stagger work start and stop times for employees when practical to prevent gatherings of large groups entering or leaving the premises at the same time;
- Provide sufficient space for employees to have breaks and meals while maintaining a social distance of 6 feet, including limiting the number of employees in common areas and setting up seating to have employees facing forward and not across from each other;
- Conduct meetings and training virtually. If a meeting must be held in person, limit the meeting to the fewest number of employees possible, not to exceed 10 employees at one time and maintain a social distance of 6 feet.
- Prohibit non-essential visitors from entering the premises of the business; and
- Ensure that all employees who do not speak English as their first language are aware of procedures by communicating the procedures, either orally or in writing, in their native or preferred language.

When a person who is a probable or confirmed case of COVID-19 is discovered, businesses are ordered to implement temperature screenings before employees enter the business prior to the start of work and send
any employee home who has an elevated temperature of 100.4 degrees Fahrenheit or higher. Upon an exposure, businesses are also ordered to do the following:

- Close off and ventilate areas visited by that individual;
- Wait a minimum of 24 hours, or as long as practical, before beginning cleaning and disinfection;
- Clean and disinfect all spaces, especially commonly used rooms and shared electronic equipment;
- Identify and notify employees who were in close contact with that individual (within about 6 feet for about 10 minutes); and
- Ensure that the business has a sufficient number of employees to perform these protocols effectively and immediately.

Governor Tom Wolf, Lieutenant Governor Fetterman Create COVID-19 Task Force to Assess Health Disparities in Minorities

The Wolf Administration announced the creation of a COVID-19 Response Task Force for Health Disparity that will help communicate issues with how COVID-19 is affecting the state’s minority and vulnerable populations. The Task Force is comprised of members of the Wolf Administration, led by Lt. Gov. Fetterman, including executive directors of each of the Governor’s five Commissions that represent minority populations, members of the Department of Health’s Health Equity Response team and those that serve as the contact for stakeholders, constituents, and legislators. The working group will proactively reach out to leaders in vulnerable communities to collect feedback, ideas, and general comments on this issue.

New Report Quantifies COVID-19’s Financial Toll on Pennsylvania Hospitals

The Hospital & Healthsystem Association of Pennsylvania has commissioned a new report by Health Management Associates (HMA), a nationally renowned health care economics consulting firm. This report seeks to formally document the financial impact of the pandemic on Pennsylvania’s hospitals and health systems.

Highlights include:
- As a result of the cancelation and delay of all non-emergent procedures and precipitous declines in patient volume resulting from forgoing care, March hospital operating margins dropped by an estimated $914 million compared to expectations
- If patient activity restrictions and volume declines had been in place for the full month, March operating margins would have been down an estimated $2.03 billion statewide
- Based on hospital modeling relating to the length and scale of the remaining pandemic period, the report concludes that operating shortfalls statewide will range from $4.4–$4.86 billion for the April through June quarter. These findings are consistent with HAP’s preliminary estimates of losses of $1.5 billion per month
- Based on a range of factors, additional operating losses from July-December 2020 would be approximately $4.7 billion, for a total yearly loss estimate of over $10.2 billion for the calendar year
- Assuming that Pennsylvania hospitals receive $3.13 billion in federal CARES Act funding (which is highly speculative, as a significant portion of the $100 billion total may be used to provide coverage for the uninsured), the net loss for Pennsylvania hospitals—based on projected and estimated losses in 2020 less available federal funding—is likely to exceed $7 billion this calendar year
**Why this matters:** To provide context, hospital net patient revenues for fiscal year 2019 totaled $47.7 billion.

HAP has distributed this report to Governor Wolf and the state General Assembly, as well as Pennsylvania’s Congressional delegation, and will use it to underscore the need to provide relief to hospitals to address short- and long-term financial impacts of COVID-19.

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**Updated Crisis Standards of Care for Pandemics Released**

The Pennsylvania Department of Health (DOH) and the Hospital & Healthsystem Association of Pennsylvania have reissued updated *Interim Pennsylvania Crisis Standards of Care for Pandemic Guidelines*. These guidelines were developed by the DOH and HAP as a guideline for pandemic and disaster situations. The purpose of this document is to help guide the allocation of patient care resources during an overwhelming public health emergency of any kind when demand for services dramatically exceeds the supply of the resources needed.

These Interim Guidelines represent a consensus view of the entire Crisis Standards of Care Stakeholder Workgroup. The document will be updated as needed and should be modified by facilities to meet the needs and abilities of each hospital. Application of these guidelines will require and depend on physician judgment at the point of patient care.

**Background:** This document is the early work of what was intended to be a comprehensive document developed by a multi-tiered team over an 18-month period. A steering committee was convened in the fall of 2019, recognizing a need for a robust Crisis Standards of Care plan within the Commonwealth of Pennsylvania that could be tactically implemented by health care facilities across the state. However, the rise of a novel Coronavirus (COVID-19) required that this document be “fast tracked” to be an interim guidance document and plan for the current global pandemic.

While the committee has worked to obtain feedback and input from key stakeholders to ensure that the guidance provides a fair and balanced approach to a difficult topic, this document should be viewed as a “work in progress” and will likely include language or content that may change in future versions. With that in mind, all health care providers are asked to use this document as the interim guidance that it is intended to be and recognize that once the current crisis is over, the broader review and improvement of this document will take place, ensuring that this document has the support of the commonwealth’s health care community.

**Why this matters:** The pandemic caused by COVID-19 is bringing unprecedented challenges to our health care systems. Should current mitigation measures fail in reducing the impact, speed, and spread of this disease, we may find our hospitals and post-acute care facilities in situations where demand exceeds resources.

These interim guidelines should serve as a guide for preserving the greatest amount of lives and health of patients should resources become scarce. Following this period in our nation’s history, DOH and hospitals will revisit these interim guidelines and create Crisis Standards of Care to cover both pandemic and natural or man-made disasters.
AHIP Publishes One-Pager on 42 CFR Part 2 Provisions in CARES Act
AHIP published a one-pager detailing the legislative changes to 42 CFR Part 2 in the CARES Acts (H.R. 748), and how those changes will improve care coordination and whole-person care for individuals with Substance Use Disorder (SUD). As part of the CARES Act, Congress made changes to 42 CFR Part 2 (Part 2) regulations aligning the confidentiality rules for SUD records with the confidentiality rules governing other types of medical record information under the Health Insurance Portability and Accountability Act (HIPAA).

Why this matters
The changes enable a patient to provide a single consent to allow their SUD treatment record to be used or disclosed for the purposes of treatment, payment, and health care operations under HIPAA. Health insurance providers and many other stakeholders have advocated for this modernization and alignment of Part 2 as essential to improving coordination of care, integration of health care services, and access to information needed to provide safe, effective, whole-person care for individuals with SUD.

Interested in reviewing a copy of a bill(s)? Access the following web sites:

Pennsylvania Legislation: www.legis.state.pa.us.
West Virginia Legislation: http://www.legis.state.wv.us/
For copies of congressional bills, access the Thomas website – http://thomas.loc.gov/.