

# PUBLICATION

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## CMS Announces Changes to Five Star Quality Rating System for Nursing Homes and Responds to FAQs

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**April 28, 2020**

### Five Star Quality Rating System Changes

On March 23, 2020, the Centers for Medicare and Medicaid Services (CMS) announced that it was temporarily postponing routine facility inspections for nursing homes so it could focus solely on inspections in response to urgent situations, such as those involving immediate jeopardy, along with those to maintain infection control to keep nursing home residents safe during the COVID-19 pandemic.<sup>1</sup> As part of its March 23 announcement, CMS also encouraged nursing homes to use the CMS Infection Control checklist to perform a self-assessment of the facility's infection control plan.

On April 24, 2020, CMS made a new announcement – that due to the interruption of routine inspections and shift to targeted inspections, it would temporarily hold the health inspection domain for the Nursing Home Five Star Quality Rating System constant as of March 3, 2020.<sup>2</sup> CMS expressed concern that there would likely be an over-weighting for those facilities inspected on or after March 4, 2020, when its targeted program was first implemented, which could potentially mislead consumers. CMS has not indicated when it will again update the health inspection domain.

In the meantime, CMS will be posting the results of health inspections conducted on or after March 4, 2020 on the Nursing Home Compare website beginning April 29, 2020. Although this information will be available to the public, the survey results will not have an effect on the facility's health inspection star ratings. CMS will continue to update survey data through the website in the coming months.

CMS has also waived timeframe requirements for facilities to submit resident assessment data (minimum data set (MDS)) and staffing data (Payroll-Based Journal (PBJ)) in an effort to reduce time spent on paperwork during the COVID-19 response.<sup>3</sup> Facilities should note, however, that these waivers for data submissions will not affect the April update to the rating system because CMS is relying on data for these domains prior to the Secretary's initial COVID-19 emergency declaration on January 31, 2020. CMS has advised that future adjustments to these domains may occur for later updates to ensure facility ratings are fair and accurate.

### CMS Responds to Frequently Asked Questions

In addition to providing information regarding the Nursing Home Five Star Quality Rating System, CMS's April 24 update also included a list of Frequently Asked Questions (FAQ) to clarify certain topics addressed in resources, guidelines and tools previously issued by CMS to help prevent and control the spread of COVID-19. Some of the topics included in the FAQs include:

- Guidance on individuals entering and leaving nursing homes, including residents returning after hospitalization with a known or unknown COVID-19 status;
- Implementation of remote visitation activities to keep residents connected with family members, including use of civil money penalty (CMP) funds to purchase communicative devices to facilitate remote visitation;
- Guidance regarding admission of visitors in "certain compassionate care situations, such as an end of life situation;"

- Safeguards for entry of health care workers, such as hospice workers, surveyors and Emergency Medical Services;
- Determinations regarding whether a resident's health care appointment can be accommodated through a telehealth visit or otherwise delayed;
- Recent CMS waivers to allow increased telehealth access and decrease data reporting requirements;
- Permissible cohorting of residents, both within a facility and among separate facilities, to prevent spread of COVID-19; and
- Recent survey activities.

We highly recommend facilities review specific guidance contained within the FAQs to help clarify CMS's previous guidance documents.

Baker Donelson is working hard to assist clients in these unprecedented times. Our team of attorneys and advisors continue to monitor and advise on new issues as they develop. For specific guidance or more information on this alert, please contact [Howard Sollins](#), [Amy Schrader](#), [Diane Schmitt](#) or any member of [Baker Donelson's Long Term Care Team](#). For more information and general guidance on how to address legal issues related to COVID-19, please visit the [Coronavirus \(COVID-19\): What you Need to Know information page](#) on our website.

<sup>1</sup> <https://www.cms.gov/newsroom/press-releases/cms-announces-findings-kirkland-nursing-home-and-new-targeted-plan-healthcare-facility-inspections>

<sup>2</sup> <https://www.cms.gov/files/document/qso-20-28-nh.pdf>

<sup>3</sup> <https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>