



August 26, 2020

To: Strategic Health Care Clients

From: David Introcaso, Ph.D., VP, Regulatory Affairs (david.introcaso@shcare.net)

Re: CMS' Releases Interim Final Rule Mandating Hospital COVID-19 Reporting

Yesterday, CMS released an interim final rule that, in part, mandates hospitals provide COVID-19 cases and related data to the Department of Health and Human Services (DHHS). The related press release is [here](#). The 202-page interim final rule is [here](#).

Briefly, the interim final will require hospitals and Critical Access Hospitals to report daily COVID-19 infection data that includes the number of confirmed or suspected COVID-19 positive patients, ICU beds occupied, and availability of essential supplies and equipment such as ventilators and PPE. The interim makes reporting a requirement of participation in the Medicare and Medicaid programs. "Hospitals will face" CMS states, "possible termination of Medicare and Medicaid payment if unable to correct reporting deficiencies." The press release states that the rule will provide "a more complete picture in the nationwide surveillance of COVID-19, as well as a more efficient allocation of PPE and other vital supplies."

The interim final also requires nursing homes to test their staff for COVID-19. Testing frequency will be based on the community's infection rate. CMS will provide specific testing requirements via soon-to-be-announced guidance. "Facilities that do not comply with the new requirements," CMS states, "will be cited for non-compliance and may face enforcement sanctions based on the severity of the noncompliance, such as civil money penalties in excess of \$400 per day, or over \$8,000 for an instance of noncompliance. CMS states further the agency is helping facilities offset the cost of testing through recent CARES Act PRF funding of \$5 billion for nursing homes to address critical needs including increased testing.

The interim also implements CARES Act requirements regarding laboratory reporting of COVID-19 results. Laboratories include hospital labs, nursing homes, and other facilities conducting testing for COVID-19 will be required to comply. Civil monetary penalty for non-reporting are \$1,000 a day for the first day, and \$500 for each subsequent day. Labs will have a one-time, three-week grace period to begin reporting required test data.

The interim final also stipulates a Medicare beneficiary may receive only one COVID-19 test without a physician's or other health practitioner's order. A second test will require an order. The interim will also allow for Medicare reimbursement for a COVID-19 test when ordered by a pharmacist or other healthcare professional authorized under applicable state law.

For more information go to CMS' Coronavirus Waivers and Flexibilities page [here](#).