

To: Centers for Medicare and Medicaid (“CMS”) Certified Skilled Nursing Facilities
From: Brent Culberson
Assistant Commissioner
Date: February 24, 2021
Subject: UPDATE re: CMS Testing Requirements and Data Sources

The Tennessee Division of Health Licensure and Regulation and the Tennessee Department of Health (TDH) are committed to protecting the health, safety and welfare of the public. TDH has shared guidance with long-term care facility administrators and stakeholders regarding testing and visitation policies guidance, as well as guidance from the Centers for Medicare and Medicaid Services (CMS). Previously, TDH issued a memo on October 16, 2020, regarding, “CMS Testing Requirements and Data Sources,” which directed facilities to a data set TDH would publish each week reflecting county positivity data.

Beginning **February 28, 2021**, facilities should reference the CMS County Positivity Data at: <https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg> to determine staff testing frequency. Facilities should continue to implement policies and procedures as outlined in OQS-20-38-NH when determining the frequency of their staff testing requirements.

On **August 25, 2020**, CMS published an interim final rule entitled “Medicare and Medicaid Programs, Clinical Laboratory Improvement Amendments of 1988 and Patient Protection and Affordable Care Act; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency.” On **August 26, 2020**, CMS published a policy memo entitled “Interim Final Rule (IFC), CMS-3401-IFC, Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency Related to Long Term Care (LTC) Facility Requirements and COVID-19 Focused Survey Tool”, QSO-20-38-NH, implementing the testing rule. <https://www.cms.gov/files/document/qso-20-38-nh.pdf>

As stated in CMS guidance, facilities should monitor their county positivity rate every other week and adjust the frequency of performing staff testing according to the county positivity rate. If the county positivity rate increases to a higher level of activity, the facility should begin testing staff at the higher frequency as soon as the criteria for the higher activity are met. For example, if a facility checks their positivity rate on the 1st and 3rd weeks of the month, and their county has a positivity rate in the ‘yellow’ tier on the 1st week but is in the ‘red’ tier on the 3rd week, then facilities in that county should begin testing twice weekly immediately (the 3rd week of the month). Conversely, if the county positivity rate decreases to a lower level of activity, the facility should continue testing staff at the higher frequency level until the county positivity rate has remained at the lower activity level for at least two weeks before reducing testing frequency.

TDH will continue to make county level positivity data in a downloadable dataset at <https://www.tn.gov/content/dam/tn/health/documents/cedep/novel-coronavirus/datasets/Public-Dataset-Daily-Data-Snapshot.XLSX>. The county level snapshots will also be available at <https://www.tn.gov/health/cedep/ncov/data/county-data-snapshot.html> and <https://covid19.tn.gov/data/dashboards/>.

If you have any questions, please contact the Office of Health Care Facilities at (615) 741-7582 or OHCF.Health@tn.gov. We appreciate your commitment to protect, promote, and improve the health and prosperity of people in Tennessee.