



**STATE OF TENNESSEE  
DEPARTMENT OF HEALTH**

Andrew Johnson Tower, 5<sup>th</sup> Floor  
710 James Robertson Parkway  
Nashville, Tennessee 37243

**BILL LEE**  
Governor

**LISA PIERCEY, MD, MBA, FAAP**  
Commissioner

**MEMORANDUM**

**DATE:** October 16, 2020

**TO:** Centers for Medicare and Medicaid (“CMS”) Certified Skilled Nursing Facilities

**FROM:** Lisa Piercey, MD MBA FAAP  
Commissioner

**SUBJECT:** 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).

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>

Facilities should implement policies and procedures as outlined in QSO-20-38-NH when determining the frequency of their staff testing requirements. CMS allows the use of state data over CMS’s data set, as long as it is more timely and consistently used for determining the frequency of testing and is documented by the facility. In order to protect our state’s most vulnerable citizens, TDH recommends the data set found at <https://www.tn.gov/health/cedep/ncov/data/clusters-in-long-term-care-facilities.html> be used to determine staff testing frequency, as it has the most up to date county positivity rate, beginning **October 26, 2020**. These data will be updated once weekly, on Sundays, with data for the prior 7 days (Sunday through Saturday), and will be a 7-day average of the percent of SARS-CoV-2 PCR tests that are positive by county (by test report date).

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 1<sup>st</sup> and 3<sup>rd</sup> weeks of the month, and their county has a positivity rate in the ‘yellow’ tier on the 1<sup>st</sup> week but is in the ‘red’ tier on the 3<sup>rd</sup> week, then facilities in that county should begin testing twice weekly immediately (the 3<sup>rd</sup> 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.

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