

# CMS Updates Blanket Waivers to Help Expand Health Care Workforce

Article By:

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On April 9, 2020 the Centers for Medicare and Medicaid Services (CMS) [updated](#) blanket waivers issued previously in response to the COVID-19 public health emergency. [According](#) to CMS, the new waivers “focus on reducing supervision and certification requirements so that practitioners can be hired quickly and perform work to the fullest extent of their licenses.” The blanket waivers have a retroactive effective date of March 1, 2020 and do not require a waiver request or notice to CMS to apply.

Under the waivers, as described by CMS:

(1) Doctors can now directly care for patients at rural hospitals, across state lines if necessary, via phone, radio, or online communication, without having to be physically present. Remotely located physicians, coordinating with nurse practitioners at rural facilities, will provide staffs at such facilities additional flexibility to meet the needs of their patients.

- Temporarily waives 42 C.F.R. 485.631(b)(2) requirement that a doctor be physically present to provide medical direction, consultation, and supervision for the services provided in a Critical Access Hospital
- Maintains the requirement that that a physician be available “through direct radio or telephone communication, or electronic communication for consultation, assistance with medical emergencies, or patient referral.”

(2) Nurse practitioners, in addition to physicians, may now perform some medical exams on Medicare patients at skilled nursing facilities so that patient needs, whether COVID-19 related or not, continue to be met in the face of increased care demands.

- Temporarily waives 42 C.F.R. § 483.30(e)(4) requirements that prevent a physician from delegating a task when the regulations specify that the physician must perform it personally.
- Temporarily modifies the regulation to specify that any task delegated under this waiver must continue to be under the supervision of the physician.

(3) Occupational therapists from home health agencies can now perform initial assessments on certain homebound patients, allowing home health services to start sooner and freeing home-health nurses to do more direct patient care.

- Temporarily waives 42 C.F.R. §§ 484.55(a)(2) and 484.55(b)(3) requirement that OTs may only perform the initial and comprehensive assessment if occupational therapy is the service that establishes eligibility for the patient to be receiving home health care.
- The “modification allows OTs to perform the initial and comprehensive assessment for all patients receiving therapy services as part of the plan of care, to the extent permitted under state law, regardless of whether occupational therapy is the service that establishes eligibility.”

(4) Hospice nurses will be relieved of hospice aide in-service training tasks so they can spend more time with patients.

- Temporarily waives 42 C.F.R. § 418.76(d) requirement that hospices must assure that each hospice aide receives 12 hours of in-service training in a 12-month period.
- Waiver “allows aides and the registered nurses (RNs) who teach in-service training to spend more time delivering direct patient care.”

*This post was co-authored by Michael Lisitano, legal intern at Robinson+Cole. Michael is not yet admitted to practice law.*

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