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October 27, 2021

DAL NH 21-23 Updated Nursing Home Testing Requirements

Dear Nursing Home Operators and Administrators:

The purpose of this Dear Administrator Letter (DAL) is to confirm that nursing homes licensed in NYS should follow the requirements for routine testing of nursing home personnel as well as testing of symptomatic or exposed staff and residents, and staff and residents during an outbreak situation as outlined in the most recent CMS QSO 20-38 **Revised September 10, 2021. This letter also** details the operator's responsibility for ensuring ongoing testing for purposes of routine surveillance of COVID-19 transmission.

Routine COVID-19 Testing of Nursing Home Personnel

As of September 27, 2021, all NYS nursing home staff, including employees, contract staff, medical staff, operators, and administrators, must be vaccinated. Operators and administrators of all nursing homes are required¹ to test or arrange for the routine testing of COVID-19 of all personnel who are not yet fully vaccinated², as defined by the Centers for Disease Control and Prevention, and those who have a qualified medical exemption or other accommodation.

Frequency of COVID-19 testing for unvaccinated nursing home personnel should follow CMS guidelines. That information, including routine testing intervals can be found here: [QSO-20-38-NH REVISED \(PDF\)](#).

Providers are advised that until further notice, any positive test result must continue to be reported to the Department by 1:00 p.m. of the day following receipt of such test results, in accordance with existing reporting protocols and mechanisms, and including but limited to data entry to the Electronic Clinical Laboratory Reporting System (ECLRS).

Distribution of Testing Supplies from New York State

To facilitate surveillance testing of unvaccinated medically or other exempt nursing home staff in New York State, the Department will continue to distribute Abbott BinaxNow COVID-19 antigen tests directly to nursing homes, **based on availability** to support the **CMS required second weekly staff test** for those with community transmission warranting such frequency

¹ Pursuant to Public Health Law Sections 225, 2800, 2803, 3612, and 4010, as well as Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York as amended in Section 415.19 of Part 415 effective September 27, 2021.

² For additional information, including the definition of *fully vaccinated*, please refer to the NYSDOH document titled [Frequently Asked Questions \(FAQs\) Regarding the August 26, 2021 – Prevention of COVID-19 Transmission by Covered Entities Emergency Regulation](#)

(surveillance testing). This distribution is not intended to support the provider's responsibility to conduct outbreak testing or be the source of tests for the first weekly test. Until further notice, tests will continue to be allocated on a monthly basis, with the next delivery occurring in November. For additional information on SARS-CoV-2 Point of Care (POC) Antigen Tests please refer to the updated CDC recommendations located at <https://www.cdc.gov/coronavirus/2019-ncov/lab/resources/antigen-tests-guidelines.html> specific to testing in a congregate living setting.

As previously referenced, nursing homes conducting facility-wide testing in response to an outbreak are **responsible for the procurement and payment of all test supplies** necessary to complete outbreak testing.

Please be advised that regardless of the frequency of testing, the facility should continue to screen all staff, residents (daily) and all persons entering the facility, such as vendors, volunteers, and visitors, for signs and symptoms of COVID-19. When prioritizing individuals to be tested, facilities should prioritize individuals with signs and symptoms of COVID-19 first, regardless whether such symptomatic staff are vaccinated against COVID-19, then perform testing triggered by an outbreak as specified below.

Testing of Staff and Residents with COVID-19 Signs or Symptoms

Staff with signs or symptoms of COVID-19, whether fully vaccinated or not, must receive a COVID-19 test immediately, along with any other medically-appropriate testing (e.g. viral respiratory pathogens), and are expected to be restricted from the facility pending the results of COVID-19 testing. If COVID-19 is confirmed, facilities and staff must follow CDC return to work requirements for facility staff working in nursing homes. Staff who do not test positive for COVID-19 but have symptoms should follow facility policies to determine when they can return to work.

Residents who have signs or symptoms of COVID-19, whether fully vaccinated or not, must be tested immediately. While test results are pending, residents with signs or symptoms should be placed on transmission-based precautions (TBP) in accordance with CDC guidance. Once test results are obtained, the facility must take the appropriate actions based on the results.

Testing of Staff and Residents with a Higher-Risk Exposure and Residents who Had a Close Contact When the Facility is Not Experiencing an Outbreak

[CMS QSO 20-38](#) provides testing guidance for those personnel or residents who have been identified as having a close contact with a COVID-19 positive individual when the facility is not experiencing an outbreak. Examples may include **exposures from a visitor, while on a leave of absence, or during care of a resident on the COVID-19 unit.**

In these instances, facilities should refer to CDC's "[Interim Infection Prevention and Control Recommendations to Prevent SARSCoV-2 Spread in Nursing Homes](#)" and "[Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2.](#)"

Testing of Staff and Residents in Response to an Outbreak

An **outbreak is defined as a new COVID-19 infection in any healthcare personnel (HCP) or any nursing home-onset COVID-19 infection in a resident.** In an outbreak investigation,

rapid identification and isolation of new cases is critical in stopping further viral transmission. A resident who is admitted to the facility with COVID-19 does not constitute a facility outbreak. Upon identification of a single new case of COVID-19 infection in any HCP or residents, testing should begin immediately. CMS QSO 20-38 advises that outbreak testing can be conducted either via contact tracing or broad-based (facility-wide testing).

For additional information related to contact tracing and broad-based testing, refer to CDC guidance "[Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes.](#)"

Thank you for your ongoing commitment and efforts to protect the health and safety of your residents and staff. If you have further questions regarding this DAL, please contact the Division of Nursing Homes /IID Surveillance Bureau of Quality Assurance and Surveillance at covidnursinghomeinfo@health.ny.gov.

Sincerely,

Sheila McGarvey, RN BSN,
Director Division of Nursing Homes and
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