



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

September 1, 2020

Re: DAL 20-11 Amended PPE
Requirements for Nursing Homes

Dear Nursing Home Administrator:

Due to the COVID-19 pandemic, on July 2020 a new regulation was adopted creating personal protection equipment (PPE) requirements for the nursing homes. Today is the first deadline stated under this regulation. This letter serves as reminder of regulatory requirements and creates a process for nursing homes to seek additional time to ask for an exemption, or to file for an extension.

Some facilities have indicated that they may need additional time to determine whether they want to ask for an extension. Should your facility need additional time to consider filing for an extension, please email this request to the nursing homes division at covidnursinghomeinfo@health.ny.gov. The Department will consider these requests until September 14, 2020.

Should your facility wish to request an extension as detailed in the regulations until October 30, 2020, please complete the attached form and submit to the same email address.

As you know, 10 NYCRR 415.19(f) states that the facility shall possess and maintain a supply of all necessary items of personal protective equipment (PPE) sufficient to protect health care personnel, consistent with federal Centers for Disease Control guidance, for at least 30 days by August 31, 2020, and at least 60 days by September 30, 2020, at rate of usage equal the average daily rate that PPE was used between April 19, 2020 and April 27, 2020.

The regulation allows the Department to grant an extension of the deadline to October 30, 2020, at its sole and exclusive discretion where the nursing home demonstrates, to the Commissioner's satisfaction, that:

- A. the nursing homes inability to meet this deadline is solely attributable to supply chain issues that are beyond the nursing home's control and purchasing PPE at market rates would facilitate price gouging by PPE vendors; or
- B. the seven-day rolling average of new COVID-19 infections in New York State remains below one and a half percent (1.5%) of the total seven-day rolling average of COVID-19 tests performed over the same period; and there are ten or less states in the United States that have a seven-day rolling average of new COVID-19 infections exceeding five thousand cases.

Failure to possess and maintain such a supply of PPE may result in the revocation or suspension of the nursing home's license; provided, however, that no such revocation or suspension shall be ordered unless the Department has provided the nursing home with a fourteen day grace period, solely for a nursing homes first violation of this section, to achieve compliance with the requirement set forth herein.

We hope the above information is helpful. We appreciate the efforts that have been made to comply with these requirements.

Sincerely,

Sheila McGarvey, Director
Division of Nursing Homes & ICF/IID
Surveillance
Center for Health Care Provider Services
and Oversight

PPE Requirement Extension Request Form

Name of facility:

Address:

Name of individual completing the form (Administrator or Operator Only):

Title of individual completing the form:

Phone number of the individual completing the form:

Email address of the individual completing the form:

Reason for exemption request (check one)

____A

(A) the facility's inability to meet this deadline is solely attributable to supply chain issues that are beyond the facility's control and purchasing PPE at market rates would facilitate price gouging by PPE vendors.

>>Required under exemption A: a list of specific items the facility has not been able to source:

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____B

(B) the seven-day rolling average of new COVID-19 infections in New York State remains below one and a half percent (1.5%) of the total seven-day rolling average of COVID-19 tests performed over the same period; and there are ten or less states in the United States that have a seven-day rolling average of new COVID-19 infections exceeding five thousand cases.

I attest that the information contained above is accurate and correct.

Signature _____

Scan and email this completed form to covidnursinghomeinfo@health.ny.gov. Please retain a copy on file of the form and email submission.