



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
www.mass.gov/masshealth

MassHealth
Nursing Facility Bulletin 159
January 2021

TO: Nursing Facilities Participating in MassHealth

FROM: Daniel Tsai, Assistant Secretary for MassHealth

RE: Updated Coronavirus Disease 2019 (COVID-19) Isolated Spaces for Nursing Facilities

Background

In light of the state of emergency declared in the Commonwealth due to the 2019 novel coronavirus (COVID-19) outbreak, MassHealth implemented measures to expand access to nursing facility care for individuals diagnosed with COVID-19 and to prevent the spread of the virus. Specifically, MassHealth established, first through [MassHealth Nursing Facility Bulletin 144](#) and subsequently through [MassHealth Nursing Facility Bulletin 150](#) and [MassHealth Nursing Facility Bulletin 156](#), criteria for nursing facilities to designate wings, units, or floors, separated from the rest of the facility and referred to here as “isolation spaces,” to provide nursing facility services to COVID-19 positive residents, which are further described in this bulletin. These isolation spaces allow individuals with a positive COVID-19 diagnosis to receive a nursing facility level of care, while ensuring all necessary precautions are taken to protect nursing facility residents without a positive diagnosis from exposure to the virus.

This bulletin is being issued in accordance with 101 CMR 206.10(3): *COVID-19 Isolation Space Supplemental Payment* and supersedes MassHealth Nursing Facility Bulletin 144, MassHealth Nursing Facility Bulletin 150, and MassHealth Nursing Facility Bulletin 156. It applies to nursing facilities participating in the MassHealth program that meet the criteria described here. The isolation space program described in this bulletin will end no sooner than March 1, 2021. MassHealth will provide at least 20 days’ notice prior to the last date of the program, in accordance with 101 CMR 206.10(3)(e)3.

The Massachusetts Executive Office of Health and Human Services (EOHHS) may issue additional guidance on this topic as informed and directed by the Massachusetts Department of Public Health (DPH), the Centers for Medicare & Medicaid Services (CMS), and the federal Centers for Disease Control and Prevention (CDC). Nursing facilities should also closely monitor updates from these agencies themselves.

Criteria for Establishing a COVID-19 Isolation Space

In order for a nursing facility provider to be designated as a qualifying nursing facility, as defined in 101 CMR 206.10(3)(a): *Isolation Space Definitions*, and to establish an isolation space, the facility must meet the criteria described here and the provider must attest to its compliance with those criteria via the form attached to this bulletin as Appendix A. Providers that submit an attestation regarding their compliance with the criteria set forth in this bulletin and whose attestation is approved by MassHealth, will be eligible for supplemental payments under 101 CMR 206.10(3)(d): *Calculation of Supplemental Payment*. Applications will be reviewed on a rolling basis and facilities

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may submit the attestation at any time. Once approved, they will begin receiving supplemental payments. To establish an isolation space as a qualifying nursing facility eligible for the associated supplemental payments from MassHealth, the nursing facility provider must meet the following criteria. Individual consideration of exemption from certain criteria may be considered for facilities requesting to use previously vacant and temporarily licensed space as its isolation space, if such temporary license is granted by DPH.

1. The nursing facility had a DPH Nursing Facility Survey Performance Tool quality rating score of at least 120 (“DPH Score”) as of July 1, 2020.
2. The nursing facility has had no infection control deficiencies, identified by DPH through the *COVID-19 Focused Survey for Nursing Homes* required by CMS, within 60 days before submitting the attestation form attached to this bulletin as Appendix A, and continues to be deficiency free on such infection control surveys while operating an isolation space under this bulletin. Individual consideration for approval and continued participation may be provided to facilities that have received D or E level deficiencies unrelated to infection control measures.
3. The nursing facility has established a separate isolation space within the nursing facility, or in a separate previously vacant and temporarily licensed space, as described above, in which it can isolate and care for COVID-19 positive residents.
4. The isolation space established by the nursing facility consists of one or more isolated wings, units, or floors that creates meaningful separation between the isolation space in which the facility isolates the COVID-19 positive residents and the space in which the facility provides care to those who are confirmed COVID-19 negative or who are not suspected to be infected with COVID-19. A curtain or a moveable screen does not provide meaningful separation.
5. The isolation space established by the nursing facility contains the lesser of at least 10 licensed beds for COVID-19 positive residents or 10% of the licensed beds within the facility.
6. The isolation space is separated in such a way that does not require nursing facility personnel maintaining the building or providing services to the residents in the isolation space to go through areas in which the residents who are confirmed COVID-19 negative or who are not suspected to be infected with COVID-19 are receiving care.
7. The nursing facility has
 - a. policies and procedures for maintaining strict infection control practices and testing protocols;
 - b. policies and procedures to ensure no co-mingling of COVID-19 positive residents with other residents outside of the isolation space;
 - c. completely separate staffing teams to provide care for the COVID-19 positive residents in the isolation space; and
 - d. a fully serviced and functional heating, air conditioning, and ventilation system, and has undertaken reasonable efforts to create a negative pressure space or maximize air exchange.
8. The nursing facility is in compliance with all state and federal statutory and regulatory requirements, including, but not limited to, the testing and reporting requirements under 101 CMR 206.10(4): *COVID-19 Staff Testing Supplemental Payment*, the density reduction and reporting requirements under 101 CMR 206.14: *Density Reduction in Nursing Facilities*, and all other requirements established under 101 CMR 206.00: *Standard Payments to Nursing Facilities*, 130 CMR 456.000: *Long Term Care Services*, and 130 CMR 450.000: *Administrative and Billing Regulations*. Nursing facilities that have requested a review of exceptional circumstances in accordance with MassHealth Nursing Facility Bulletin 154, or any subsequent bulletin issued pursuant to 101 CMR 206.14: *Density Reduction in Nursing Facilities*, are considered in compliance with the density reduction and reporting requirements while the review of their exceptional circumstances request is pending. Such facilities may therefore operate an isolation space under this bulletin and be eligible for the associated supplemental

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payments from MassHealth during such time. As outlined in [MassHealth Nursing Facility Bulletin 154](#), MassHealth will make the final determination as to whether density reduction exceptional circumstances apply, and reserves the right to deny a facility's claims of density reduction exceptional circumstances. A facility whose density reduction exceptional circumstances request is denied must then meet the density reduction and reporting requirements established by MassHealth in order to continue to be eligible to operate an isolation space under this bulletin.

9. The nursing facility is in compliance with current state and federal regulatory requirements for infection control practices in nursing facilities.
10. The nursing facility will remain in continued compliance with all conditions identified in items 1 through 9, above.
11. The nursing facility will remain in compliance with the November 5, 2020, [Order of the Commissioner of Public Health Regarding Control of COVID-19 in Long-Term Care Facilities](#) ("DPH Order"); facilities under a temporary admissions freeze per the DPH Order will not be eligible for the program with the exception of a freeze being implemented for the sole reason of high staff COVID-19 positive cases, described under factor 1 in the DPH Guidance, [Implementation of Order of the Commissioner of Public Health Regarding Control of COVID-19 in Long-Term Care Facilities](#) ("DPH Guidance"). Therefore, if high staff cases under factor 1 of such guidance is the only reason cited for a temporary admissions freeze at a facility under the DPH Order, the facility will not lose eligibility under this bulletin and, notwithstanding item 12 of this bulletin, will not be required to admit new COVID-19 patients during such admissions freeze. Additionally, please refer to the description of "healthcare-associated COVID-19" in the [DPH Order](#) and [DPH Guidance](#) for resident cases. Further, facilities that are ineligible for the isolation space program due to an existing DPH admissions freeze may reapply to the program once the admissions freeze that disqualified them from participation is lifted. Such facilities must meet all other criteria described in this bulletin in order to be approved.
12. The nursing facility will monitor and regularly update its practices based upon the most current infection control and COVID-19 guidance issued by DPH, CMS, and the CDC. The nursing facility will not deny admission to a member (including MassHealth Limited members) or other person seeking admission because they are confirmed to be infected with COVID-19, regardless of whether the individual is entering from a hospital, the community, or another setting, unless the nursing facility documents that it does not have sufficient bed capacity, or clinical capacity to safely provide appropriate services to such person. A facility is not required to admit members pursuant to this paragraph if the facility is receiving temporary staffing support through the Commonwealth's Rapid Response Teams or the Massachusetts's National Guard. Note that COVID-19 testing and treatment services are covered as emergency services for MassHealth Limited members for the duration of the public health emergency under [MassHealth All Provider Bulletin 292](#).
13. Within 48 hours of being approved as a qualifying nursing facility, the nursing facility will alert at least two area acute hospitals, which the nursing facility must identify in its attestation, that the nursing facility is available to accept COVID-19 positive patients. The nursing facility will continue to communicate its isolation space bed capacity to the hospitals identified in its attestation on at least a weekly basis, not later than 12:00 p.m. (noon) on Thursday of each week.
14. The nursing facility will be responsive to requests from any hospital for discharge planning and available to accept new admissions of COVID-19 positive patients, from 7:00 a.m. to 7:00 p.m., seven days a week.
15. The nursing facility will report via a survey created by MassHealth on the number of available beds and COVID-19 positive residents occupying beds in the isolation space each week, by 12:00 p.m. (noon) on Thursdays in the form and manner specified by MassHealth.

Submission of Attestation of Compliance

In order for MassHealth to approve a provider as a qualified nursing facility eligible to operate an isolation space, a nursing facility administrator or other appropriate representative must attest to the criteria set forth above using the form included in this bulletin as Appendix A, and **must submit the executed form via email to Christine Kim at christine.kim@mass.gov**. Upon notification from MassHealth that the provider's attestation has been approved, the provider will be eligible for the supplemental payment under 101 CMR 206.10(3)(d): *Calculation of Supplemental Payment* as of the date of approval. MassHealth will review attestation submissions in the order they are submitted.

Verification of Compliance

A nursing facility provider that attests to their compliance with the criteria established by this bulletin will be subject to audits, inspections, or requests for information or documentation by EOHHS, DPH, or MassHealth regarding its compliance with the criteria established in this bulletin. If a nursing facility is determined to be out of compliance with the criteria established in this bulletin or any other state or federal requirements, MassHealth will disqualify the facility from the isolation space program, in accordance with 101 CMR 206.10(3)(c).

Furthermore, if MassHealth determines that a nursing facility provider has made false or misleading representations through the submissions required by this bulletin, MassHealth may pursue sanctions against such provider under 130 CMR 450.238: *Sanctions: General*.

MassHealth will refer providers to the Medicaid Fraud Division in the Attorney General's Office, as appropriate.

Additional Information

For the latest Massachusetts-specific information, visit the following link:
www.mass.gov/resource/information-on-the-outbreak-of-coronavirus-disease-2019-covid-19.

The latest CMS guidance is available at the following link: www.cms.gov/About-CMS/Agency-Information/Emergency/EPRO/Current-Emergencies/Current-Emergencies-page.

The latest CDC guidance for health care professionals is available at the following link:
www.cdc.gov/coronavirus/2019-ncov/hcp/index.html.

The latest CDC guidance for nursing homes and other long-term care facilities is available at the following link: www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html.

Questions

If you have any questions about the information in this bulletin, please email your inquiry to Christine Kim at christine.kim@mass.gov.

MassHealth Website

This bulletin is available on the MassHealth website at www.mass.gov/masshealth-provider-bulletins. To sign up to receive email alerts when MassHealth issues new bulletins and transmittal letters, send a blank email to join-masshealth-provider-pubs@listserv.state.ma.us. No text in the body or subject line is needed.

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Appendix A

Updated Nursing Facility Provider Attestation to Establish COVID-19 Isolation Space

I, _____, hereby certify under the pains and penalties of perjury that I am the administrator or other duly authorized officer or representative of _____, located at _____, (hereinafter “nursing facility”) and that nursing facility meets the criteria established by MassHealth Nursing Facility Bulletin XXX for the operation of a COVID-19 isolation space within the nursing facility. Specifically, I represent and warrant that:

I have actual knowledge that the following conditions are currently satisfied.

1. The nursing facility had a DPH Nursing Facility Survey Performance Tool quality rating score of _____ as of July 1, 2020.
2. The nursing facility has had no infection control deficiencies, identified by DPH through the *COVID-19 Focused Survey for Nursing Homes* required by CMS, in the 60 days prior to submitting this attestation and will continue to be deficiency free on such infection control surveys while operating an isolation space under this MassHealth Nursing Facility Bulletin XXX.
3. The nursing facility has identified and established a separate isolation space within the nursing facility, or in a separate previously vacant and temporarily licensed space, in which it can isolate and care for COVID-19 positive residents.
4. The isolation space established by the nursing facility consists of _____ (number and type of space: wing, unit, floor, combination thereof) that creates meaningful separation between the isolation space in which the facility isolates the COVID-19 positive residents and the space in which the facility provides care to those who are confirmed COVID-19 negative or not suspected to be infected with COVID-19. A curtain or a moveable screen does not provide meaningful separation.
5. The isolation space identified by the nursing facility contains _____ licensed beds for COVID-19 positive residents and, if the number of licensed beds listed here is less than 10, the number of licensed beds listed represents at least 10% of the licensed beds within the facility.
6. The isolation space is separated in such a way that does not require nursing facility personnel maintaining the building or providing services to the residents in the isolation space to go through areas in which residents who are confirmed COVID-19 negative or not suspected to be infected with COVID-19 are receiving care .
7. The nursing facility has
 - a. policies and procedures for maintaining strict infection control practices and testing protocols;
 - b. policies and procedures to ensure no comingling of COVID-19 positive residents with other residents outside of the isolation space;
 - c. completely separate staffing teams to provide care for the COVID-19 positive residents in the isolation space; and

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- d. a fully serviced and functional heating, air conditioning, and ventilation system, and has undertaken reasonable efforts to create a negative pressure space or maximize air exchange.

To the best of my knowledge, the following conditions are currently satisfied:

8. The nursing facility is in compliance with all state and federal statutory and regulatory requirements, including, but not limited to, the testing and reporting requirements under 101 CMR 206.10(4): *COVID-19 Staff Testing Supplemental Payment*, the density reduction and reporting requirements under 101 CMR 206.14: *Density Reduction in Nursing Facilities*, and all other requirements established under 101 CMR 206.00: *Standard Payments to Nursing Facilities*, 130 CMR 456.000: *Long Term Care Services*, and 130 CMR 450.000: *Administrative and Billing Regulations*.
9. The nursing facility is in compliance with current state and federal regulatory requirements for infection control practices in nursing facilities.

I commit to ensuring continued compliance with the following conditions for the duration of the COVID-19 public health emergency:

10. The nursing facility will remain in compliance with the November 5, 2020, [Order of the Commissioner of Public Health Regarding Control of COVID-19 in Long-Term Care Facilities](#) (“DPH Order”); facilities under a temporary admissions freeze per the DPH Order will not be eligible for the program with the exception of a freeze being implemented for the sole reason of high staff COVID-19 positive cases, described under factor 1 in the DPH Guidance, [Implementation of Order of the Commissioner of Public Health Regarding Control of COVID-19 in Long-Term Care Facilities](#). Therefore, the facility acknowledges that if high staff cases under factor 1 of such guidance is the only reason cited for a temporary admissions freeze at a facility under the DPH Order, the facility will not lose eligibility under MassHealth Nursing Facility Bulletin XXX and, notwithstanding item 13 of this attestation, will not be required to admit new COVID-19 patients during such admissions freeze. Further, the facility acknowledges that if it becomes ineligible for the isolation space program due to an existing DPH admissions freeze, it may reapply to the program once the admissions freeze that disqualified it from participation is lifted.
11. The nursing facility will remain in continued compliance with all conditions identified in items 1 through 9, above.
12. The nursing facility will monitor and regularly update its practices based upon the most current infection control and COVID-19 guidance issued by DPH, CMS, and the CDC.
13. The nursing facility will not deny admission to a member (including MassHealth Limited members) or other person because they are confirmed to be infected with COVID-19, regardless of whether the individual is entering from a hospital, the community, or another setting, unless the nursing facility documents that it does not have sufficient bed capacity or clinical capacity to safely provide appropriate services to such person. The nursing facility acknowledges that COVID-19 testing and treatment services are covered as emergency services for MassHealth Limited members for the duration of the public health emergency under MassHealth All Provider Bulletin 292. The nursing facility further acknowledges that it is not required to admit members to its isolation space if the facility is receiving

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temporary staffing support through the Commonwealth's Rapid Response Teams or the Massachusetts's National Guard.

14. Within 48 hours of being approved to operate an isolation space, the nursing facility will alert the following acute hospitals that the nursing facility is available to accept COVID-19 positive patients:

a. Hospital 1 (name and address): _____

b. Hospital 2 (name and address): _____

c. Optional additional hospitals (names and addresses): _____

The nursing facility will continue to communicate its isolation space bed capacity to these hospitals on at least a weekly basis, not later than 12:00 p.m. (noon) on Thursday of each week.

15. The nursing facility will be responsive to requests from any hospital for discharge planning and available to accept new admissions of COVID-19 positive patients, from 7:00 a.m. to 7:00 p.m., seven days a week.
16. The nursing facility will report via a survey created by EOHHS on the number of available beds and COVID-19 positive residents occupying beds each week, by 12:00 p.m. (noon) on Thursdays in the form and manner specified by MassHealth.

Further, I hereby acknowledge that the nursing facility will cooperate fully with any audits, inspections, or requests for information or documentation related to its compliance with the conditions set forth in MassHealth Nursing Facility Bulletin XXX. If the nursing facility becomes unable to comply with any condition set forth in MassHealth Nursing Facility Bulletin XXX, I will promptly notify MassHealth via email to Christine Kim at christine.kim@mass.gov.

Under the pains and penalties of perjury, I hereby certify that the above information is true and correct.

Printed Name: _____

Title: _____

Signature: _____

Date: _____

Please submit a scanned copy of the executed attestation via email to Christine Kim at christine.kim@mass.gov.

The nursing facility should maintain the original executed copy of the attestation in its files.