



## **Tips for Submitting Comments on Interim Final Rule CMS-3401-IFC (Nursing Home Testing)**

An interim final rule with comment period was published on September 2 that outlines COVID-19 testing requirements for nursing homes. LeadingAge will be submitting comments on the final rule and we encourage members to do so as well. We have compiled the following tips and links to help.

### **How to Write Your Comments**

Begin by introducing yourself and telling why this rule matters to you. You might tell a little about the organization for which you work, the residents you serve, or the job you do. Just remember to get appropriate permissions before sharing any identifying information.

Don't feel obligated to comment on every aspect of the rule. Choose what matters most to you, whether that is 1 issue or 4 issues. Identify the issue, tell why you support or oppose it, and offer an alternative to issues you oppose. Explain how your alternative will help meet the same objective more effectively.

Hit the sweet spot of concise and constructive. Provide enough information to make your point. Remember, you are shaping policy, not simply casting a vote.

### **How to Submit Your Comments**

Comments must be received by CMS by **5pm ET on Monday, November 2, 2020**. Remember to reference file code CMS-3401-IFC in your comments. Comments can be submitted 1 of 3 ways:

*Electronically:* Comments can be submitted electronically via the Federal Register. Access the rule [here](#), then click on "Submit a Formal Comment" near the top of the page. You may type your comments directly into the text box, or you may attach a file containing your comments.

*By regular mail:* Comments may be submitted by mail and must be received before the close of the comment period. Mail written comments to:

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attn: CMS-3401-IFC  
P.O. Box 8016  
Baltimore, MD 21244-8016

*By express or overnight mail:* Comments may be submitted by express or overnight mail to:

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attn: CMS-3401-IFC  
Mail Stop C4-26-05  
7500 Security Boulevard  
Baltimore, MD 21244-1850

## **Main Points of the Rule**

Nursing homes are required to provide testing to residents and staff as follows:

- Diagnostic testing for any residents or staff who show symptoms of COVID-19.
- Screening testing for all residents and staff when an outbreak has been identified.
- Routine testing for all staff based on the positivity rate of the county in which the nursing home is located.

Nursing homes have the flexibility to choose between antigen testing or PCR testing. Antibody testing will not meet requirements. Regardless of the type of testing conducted, test results must be received within 48 hours. If test results are not received within 48 hours, the nursing home must notify the state/local health department.

Nursing homes must report point-of-care testing that is conducted in the nursing home according to [HHS Lab Data Reporting Guidance](#). This means reporting all tests within 24 hours to the state/local health department in a manner prescribed by the state. Nursing homes that do not report according to this guidance are subject to citation and Civil Money Penalties (CMPs).

Nursing homes must report COVID-19 data directly to the Centers for Disease Control & Prevention (CDC) via the National Healthcare Safety Network (NHSN) system according to interim final rule CMS-5531-IFC. Nursing homes that do not report according to this guidance are subject to citation and Civil Money Penalties (CMPs).

## **Resources to Assist You as You Write**

Find the interim final rule [here](#). Information on CMPs related to NHSN reporting are contained in Section A. Information on CMPs related to reporting point-of-care testing are contained in Section C. Testing requirements are contained in Section J.

Read the LeadingAge summary of provisions and analysis [here](#).

For more tips on writing comments, check out this resource: [Tips for Submitting Effective Comments](#)