

ACF Medical Equipment Waiver
Questions & Answers

Q1: On the DOH-4235a, under “Proof Justification/Need,” the Physician Order is referenced but not the DOH-4235b. These are indeed one in the same, correct?

A1: That is correct. We will consider this clarification for future form updates.

Q2: If a waiver was already submitted to the Regional Office, and there has been communication with the Regional Office staff, does the waiver need to be resubmitted?

A2: No. As indicated in DAL #22-22, “...If a medical equipment waiver request is actively under discussion with a Regional Office, ACFs should discuss the status of the waiver determination and confirm whether additional or revised documentation is needed, and if submission via HCS Secure File Transfer is recommended...” [Emphasis added.]

Additionally, if a waiver has been successfully submitted via the HCS Secure File Transfer, in accordance with DAL #22-22, a resubmission is not required.

Q3: Does the need for reassessment “with each new medical evaluation” include the need for a new medical order?

A3: Yes. The need for medical equipment, and safe and independent use of such equipment, must be assessed annually and reflected in the resident's records along with a current physicians' order.

Q4: One of the items on the Checklist indicates that a Disaster Plan Roster must be submitted with the Waiver for Medical Equipment. Are you only asking for transfer assistance levels specifically used in an evacuation? Or are you asking for transfer assistance, as in ADLs?

A4: The DOH-4235a requires “...A copy of the facility's current disaster plan roster of residents with transfer assistance levels clearly identified for all residents and specifying residents in need of assistance with evacuation. Please note, facilities must have specific and current procedures for evacuation of residents needing individual procedures documented and available upon request of the Department...” Accordingly, the facility is required to submit the entire roster of residents with transfer assistance levels clearly identified for all residents and specifying residents in need of assistance with evacuation.

Q5: Paragraph 2 of DAL #22-22 indicates that the assessment must be renewed not less than annually, upon change in condition and with each new medical evaluation. As an ALP, we are required to obtain a new medical evaluation when a person returns from the hospital irrespective of length of stay. Does this mean we must redo the waiver and submit? Do I have to complete all the required paperwork again or can a case note suffice?

A5: Once a waiver has been approved, renewal will not be necessary. However, should an assessment determine that the equipment is no longer needed, the facility must ensure proper and prompt removal.

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Q6: We are having difficulty getting the original MD order for a hospital bed for one of our residents. It seems the MD does not have a copy in the person's chart. Can they write up a new order for it?

A6: Pursuant to DAL #22-22, effective April 1, 2022, either DOH Form 4235B Medical Equipment Waiver Addendum or, if ordered by the resident's primary care physician, a copy of the physical therapist or occupational therapist assessment for the specific medical equipment for which the waiver is sought is required.

Q7: If a doctor orders a high-low hospital bed with an enabler bar, would that be acceptable? It seems the high-low bed would qualify as an equivalency as a bed that is not standard, and then the enabler bar would be a waiver request? Please advise whether the Department would entertain this and if so, how it should be submitted.

A7: A hi-low (i.e., height adjustable) bed is a hospital bed which therefore requires a waiver request following the guidelines reflected in DAL #22-22.

Q8: Do non-hospital electric beds like TempurPedic, Beautyrest, or SleepNumber, etc. fall under the equivalency for bed substitution or do they require a waiver?

A8: Non-hospital electric beds (i.e., TempurPedic, Beautyrest, or SleepNumber, etc.) fall under the existing equivalency for bed substitution. Accordingly, no waiver request is currently required to deploy these beds. The existing equivalency interpretive guidelines are applicable.

Q9: Does an assist rail, which is a ¼ side rail, require a waiver request?

A9: Yes.

Q10: Do we need to obtain physical signatures or can an electronic signature or typed physician signature acceptable?

A10: Physical physician signatures or an official physician stamp, such as those used for prescriptions, are acceptable. Typed signatures are not acceptable.

Q11: If there are hospice patients that need a hospital bed, is a waiver request required?

A11: Yes. An approved hospital bed waiver is required for hospice residents. ACFs should clearly identify when a resident is on hospice and must include a statement that additional safety measures to ensure resident safety will be taken pursuant to the resident's hospice care plan (a copy of the plan is not required).

Q12: We will be submitting multiple waiver requests for multiple residents. Do we submit as separate requests or in one bulk package?

A12: Each resident-specific waiver must be submitted independently of other submissions.

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Q13: Where are these fillable forms (DOH-4235, DOH-4235a, and DOH-4235b) located?

A13: Fillable forms are located on the Health Commerce System with DAL #22-22 and online at https://health.ny.gov/facilities/adult_care/forms.htm. In addition, links to each of these forms is provided in the Medical Equipment Waiver Request Form. It is important to note that the link will open a blank form and any edits will not be saved. ACFs are responsible for saving the form and uploading a completed copy to the appropriate request.

Q14: If we successfully submitted a waiver via the HCS, Secure File Transfer do we need to resubmit?

A14: No. See response to Question 2 above.

Q15: A trapeze is typically attached to a hospital bed but there is not an option for this on the DOH-4235b. How should this be handled?

A15: If the resident's Primary Care Physician is recommending both a hospital bed and trapeze, the 4235b should reflect both "Hospital Bed" and "Trapeze".

Q16: What if a resident needs a hospital bed and assistive device?

A16: If the resident's Primary Care Physician is recommending both a hospital bed and assistive device, the 4235b should reflect both "Hospital Bed" and "Enabling Device". The specific type of enabling device must be clearly indicated. In such cases, it is recommended that ACFs review manufacturer's specifications for the bed and the specific device to ensure compatibility. These documents should also be uploaded with the waiver request prior to submission.

Q17: Can a facility-employed nurse determine if a resident requires a medical device (e.g., transfer pole) or is this required to be performed by a third party clinician?

A17: Medical Equipment Waiver Requests must include either a DOH 4235b, signed by the resident's primary care physician or, if ordered by the resident's primary care physician, a copy of the PT/OT assessment indicating need for the specific equipment.

Q18: Is a full resubmission expected annually?

A18: Once approved, a waiver does not need to be submitted annually provided there are no changes that would warrant a new submission. However, at minimum, the DOH-4235b must be completed annually and maintained in the resident's record along with an updated RN/PT/OT evaluation for safe and independent use.

ACFs must have, and successfully implement, policies and procedures that include routine assessment/evaluation, including upon any significant change of condition, of the resident's ability to safely and independently self-manage and use the specific medical equipment and referral to the resident's primary care physician when such change is identified.

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Q19: If a physical therapist (PT) or occupational therapist (OT) has conducted an assessment for the specific piece of medical equipment for which the waiver request is submitted, is a physician's order required?

A19: Please refer to DOH-4235A which indicates that either the physician's order or the PT/OT assessment is required.

Q20: In addition to the bed equipment, the Department converted use of a Wanderguard and other electronic devices to require a waiver request. Should Wanderguard submissions follow the paper process?

A20: Wanderguard waiver requests should be routed to the appropriate Regional Office for review. The Regional Office will advise next steps, as applicable.

Q21: Is the Department envisioning this new process for submissions to be expanded for all waiver request submissions? If so, is there a timeline?

A21: Yes, ultimately this new platform for waiver request submissions is being evaluated for possible expansion. At this time, the Department is evaluating the new process outlined in DAL #22-34 for necessary modifications and will discuss and implement its expansion when the Department is ready for such expansion. Accordingly, there is currently no timeline on such expansion.

Q22: Where can we locate our facility's Operating Certificate number and information regarding the certification and expiration dates as needed to complete the DOH-4235?

A22: The relevant operating certificate information is on the facility's operating certificate, which should be prominently displayed within the facility. The information is also available online at <https://profiles.health.ny.gov/acf>, and/or on the Health Commerce System Health Facilities Information System application, and/or can be confirmed by outreaching the Department at acfopcert@health.ny.gov.

Q23: Will the webinar be recorded?

A23: Yes, the webinar will be recorded and a link will be widely broadcast when available.

Q24: As designed, the DOH-4235b does not allow for a hospital bed with a device other than a half rail. The original guidance stated one device per bed. It did not specify that it had to be a half rail. The 4235b states one device per order which eliminates the possibility of a different type of device on a hospital bed. Is this what was intended?

In other words, if the hi-low bed is considered a hospital bed, then it should be allowed one device (e.g., half rail or enabler). How would that be reflected on the waiver if it were an enable rather than a rail? Or is that not allowed?

A24: Facilities must complete the "Required for All Waivers" section as it relates to both the bed and the enabling device. In addition, they must complete the "Additional Requirements for

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Hospital Bed Waivers” and “Additional Requirements for Enabling Device Waivers” sections of the DOH4235a. All supporting documentation submitted must support both requests.

Q25: DOH-4235b presumes that a physician is ordering Medical Equipment, however residents may see PAs or NPs. Is this permissible as well?

A25: Nurse Practitioners and/or Physicians’ Assistants can sign a DOH-4235b. Cosignatory requirements required by the Medicaid Program for assisted living program medical evaluations, for example, or the State Education Department, should be reviewed by the signatory as applicable.

Q26: The form – DOH 4235, Adult Care Facility Waiver Request Equivalency – has a signature line but it is not fillable. The rest of the form is fillable. Do you want me to print and sign each one (we have several coming over) or will printing my name inside the form suffice?

A26: How you obtain and provide the required signature is up to you, but the signature is required.

Q27: Does the equipment at the following link require a waiver submission?
https://www.amazon.com/Handicap-Mobility-Disabled-Accessories-Protection/dp/B07SQX1DZ9/ref=sr_1_7?crd=1H8Q1VMP45WE3&keywords=floor+bed+rail&qid=1648476723&srefix=floor+bed+rail%2Caps%2C185&sr=8-7

A27: All enabling or assistive devices require an approved waiver.

Q28: Can the facility flag waiver submissions for prospective residents?

A28: We have concerns with the waiver determination being a factor in an admission decision, a decision which rests with the facility. As such, and because there is no waiver-dependent admission requirement, the decision rests with the facility whether the facility can meet the prospective residents’ individual needs on admission including if the facility determines it can submit a successful waiver request. Accordingly, there is no need to flag a waiver submission. However, in the event a resident is on hospice and requires a hospital bed, ACFs may notify their regional office upon submission to assist in expediting these reviews.

Q29: Must the facility’s submitted policy and procedure be signed/dated by the facility?

A29: If a policy and procedure submitted with a waiver request has a space for signature/date, then such is expected. However, the lack of a signature/date will not serve as the sole basis for a waiver request denial. The Department might flag in waiver-related communication that the signature/date is required and may verify the signature/date is present upon survey,

Q30: Does a waiver request need to drill down to the specific regulatory subparagraph?

A30: Yes, the specific policy reference, including relevant subparagraph, is expected. This is important for the facility to demonstrate understanding of the regulations to which they are subject

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and that they are requesting be waived, and for specificity regarding the regulation being waived for the individual resident.

Q31: Does the DOH-4235b need to be renewed annually?

A31: The DOH-4235b must be renewed annually and filed in the resident's record. The policies and procedures submitted must include a statement referencing annual renewal of the DOH-4235b if the equipment is applicable and still in use. Please refer to Question 18 for additional information.

Q32: Which type of waiver is a medical equipment waiver?

A32: Facilities submitting a Medical Equipment Waiver should select "programmatic" on the DOH-4235.

Q33: My Waiver request was denied because the resident cannot use the equipment safely and independently, but they receive assistance under an ALP, EALR, or SNARL- how do I proceed?

A33: It is the Departments guidance that residents of Adult Homes and Enriched Housing programs need to be able to use the specified medical equipment safely and independently, however, if you would like special consideration for residents of assisted living programs/enhanced assisted living residences/special needs assisted living residences: please include information with your waiver request attesting to the resident's capacity to understand need and use of equipment, extent/frequency of assistance needed, who is responsible for providing assistance, and staff training regarding equipment and assistance guidelines.

Q34: I submitted two waiver requests. One was denied for missing information but the Regional Office contacted me for missing information on the other one. Why weren't these processed the same?

A34: If multiple, required components are missing from the submission. The Department will issue a declination letter. However, if a waiver request is received and could be approvable with minor changes or updates, the Regional Office may issue a Request for Information (RFI). Effective **September 1, 2022** RFIs will be issued to the ACF Submitter via email and include a secure hyperlink to upload the requested information. Only material responsive to the specific RFI should be uploaded via the link provided.

Q35: Why is this process changing, again?

A35: Working, collaboratively, with the industry we have continuously assessed the effectiveness of existing procedures and feel that the transition to an automated process will streamline the medical equipment waiver review process and minimize the time needed for both submission and review.

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Q36: I received a declination letter indicating that several components of the submission were missing. Can I send in the missing information or do I need to resubmit a new request?

A36: A declination is a final determination. If you feel that you have the information needed, pursuant to the guidance outlined in DAL #22-22, a complete resubmission will be necessary. Effective **September 1, 2022**, all submissions must be received via the Medical Equipment Waiver Request Form as set forth in DAL #22-34.

Q37: What does conditional approval mean?

A37: Conditional approval allows for the identified regulation to be waived for the specific matter reviewed and is contingent upon the facility maintaining compliance with the conditions set forth.

Q40: My waiver has been in review for months. Can I resubmit via the new process?

A40: Duplicate submissions are not encouraged. However, please contact your Regional Office to discuss.