

LEADINGAGE NEW YORK COMPARISON OF SEPTEMBER 17 CMS AND NYS DOH VISITATION GUIDANCE FOR NURSING HOMES

(Note: This is not a comprehensive summary of the guidance. Please refer to the guidance documents at the links below.¹)

Topic	CMS Guidance (QSO 20-39-NH)	NYS DOH Revised SNF Visitation	Analysis
Effective	Immediately.	Sept. 17, with 1-week grace period for testing for facilities previously open.	Generally consistent
Core Principles/ Conditions for Visitation	<p>Core Principles <i>should</i> be adhered to at all times:</p> <ul style="list-style-type: none"> • Screening all who enter • Hand hygiene • Face covering or mask • Social distancing (at least 6 ft) • Instructional signage and visitor education • Cleaning and disinfecting high frequency touched surfaces and visitation areas after each visit • Appropriate staff use of PPE • Cohorting • Resident and staff testing in accordance with QSO-20-38 	<p><i>Must</i> satisfy conditions:</p> <ul style="list-style-type: none"> • Compliance with reporting, • Safety plan submission • No staffing shortages • <i>No new onset of COVID in nursing home in 14 days</i> • Access to adequate testing based on plan that ensures all residents have had baseline test, capability to test in outbreak • Arrangement with lab to conduct PCR tests and rapidly report • Written screening protocols. <p>Also –</p> <ul style="list-style-type: none"> • Adequate staff for supervision and disinfecting • All visitors and residents wear mask or face-covering • Social distancing • Hand sanitizer • Fact sheet 	Some NYS conditions may conflict with CMS requirements to facilitate visitation. (See below)
Person-Centeredness	<i>Required</i>	N/A	CMS
Location	<i>Can</i> be conducted through different means, e.g., resident rooms, visitation	<i>Should</i> be limited to outdoors, weather permitting. Under certain	Indoor or Outdoor.

¹ CMS QSO 20-39: <https://www.cms.gov/files/document/qso-20-39-nh.pdf>. DOH Health Advisory Sept. 17: <https://www.leadingagency.org/linkservid/46C511FA-F874-69E5-6F5BD31CF7DF84CF/showMeta/0/>.

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	spaces, outdoors, depending on structure and resident needs. <i>Should</i> provide adequate degree of privacy.	circumstances, indoors. Resident room strictly prohibited except if bedbound, end-of-life or pediatric in dedicated unit.	May be in-room if bedbound, EOL, pediatric. Provide privacy.
Outdoor	Preferred, <i>should</i> be outdoors whenever practicable. <i>Should</i> be facilitated routinely. Limit numbers and size of simultaneous visits. <i>Should</i> create accessible and safe outdoor spaces. <i>County positivity rate does not need to be considered. Does not reference 14-day waiting period after new COVID case.</i>	<i>Should</i> be limited to outdoors, weather permitting.	Outdoor preferred. CMS requires nursing homes to facilitate outdoor visits “routinely.” Seeking clarification from NYS regarding 14-day waiting period for outdoor visits.
Indoor	<i>Should</i> accommodate and support indoor visitation, including visits for reasons beyond compassionate care situations, if: <ul style="list-style-type: none"> • <i>No new onset of COVID cases in last 14 days and not conducting outbreak testing.</i> • Visitors adhere to infection control principles and staff monitor. • Limit # of visitors/resident and total # at one time. • Limit movement in facility. • If residents share room, visits should not be in room. If health status of resident prevents leaving room, <i>should</i> attempt to enable in-room visitation while adhering to infection prevention. • <i>Should</i> consider county positivity rate. 	Under certain circumstances: <ul style="list-style-type: none"> • In well-ventilated space • No more than 10 individuals • Wearing mask or face covering • Socially distanced Resident room strictly prohibited except if bedbound, end-of-life or pediatric in dedicated unit.	Allowed if no new onset in 14 days and facility is not outbreak testing. Use well-ventilated space(s). No more than 10 individuals in space. Visitors wear masks and socially distance. May be in-room if bedbound, EOL, pediatric.

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Community Spread	Facilities <i>should</i> consider COVID county positivity rate to determine how to facilitate visitation. Low-Medium ($\leq 10\%$): Visitation should occur. If $>10\%$: Only for compassionate care situations or outdoors. <i>May</i> monitor other factors to understand level of risk.	N/A	Consider county positivity rate in determining visitation limits, requirements, space, etc. Seeking clarification from NYS regarding whether 14-day waiting period must be applied to outdoor visitation (due to low positivity rates).
Visitor Testing	<i>Not required.</i> Encourage facilities in Medium or High ($\geq 5\%$) positivity counties to test visitors if feasible. Prioritize visitors who visit regularly. <i>May</i> encourage visitors to be tested on their own prior to coming to facility (e.g., 2-3 days) with proof of neg test and date.	<i>Required.</i> Except facilities that had already resumed visitation may allow visitation without negative test result until September 24, 2020. End of life and compassionate care visits not subject to negative test result.	CMS does not require, encourage, or prohibit testing in low positivity counties. But, CMS requires facilitation if no case in past 14 days. Seeking clarification from NYS re: whether visitor testing will continue to be required.
Number of Visitors	Outdoors: Limit numbers and size of simultaneous visits. Indoors: Limit # of visitors/resident and total # at one time.	Number of visitors <i>must</i> not exceed 10% of the resident census at any time and only 2 visitors per resident at any time. No more than 10 individuals in an indoor space.	NYS guidance is more specific and does not conflict with CMS.
Child Visitors	N/A	Visitors under age 18 to be accompanied by adult 18 years or older.	NYS guidance is more specific and does not conflict with CMS.
Compassionate Care Visits	Compassionate care does not exclusively refer to end-of-life (EOL). Other types	End of life and compassionate care visits not subject to negative test	CMS guidance offers broader approach.

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	include but are not limited to: New resident struggling with change in environment; resident grieving; resident who needs encouragement to eat; resident experiencing emotional distress. May be conducted by anyone, including clergy. Social distance, but <i>may</i> identify way to allow for personal contact, following all appropriate infection prevention guidelines for a limited amount of time.	result. EOL not subject to 14-day waiting period. Not clear whether compassionate care is subject to 14-day waiting period. No definition of compassionate care. NH COVID Guidance speaks to “imminent end-of-life situations.”	Seeking NYS clarification regarding more flexible person-centered approach.
When Visitation May be Prohibited	Facilities <i>may</i> restrict in-person visitation due to county positivity rate, facility’s COVID status, resident’s COVID status, visitor symptoms, lack of adherence to infection control practices, or other <i>relevant factor</i> . Facilities <i>may not</i> restrict without a reasonable clinical or safety cause.	Facilities must restrict visitation if they don’t satisfy all conditions above.	Seeking clarification regarding whether <i>all</i> NYS conditions are “relevant factors” that would allow restrictions on visitation under CMS guidance.
When Visitation is Required	If no COVID cases in last 14 days and county positivity rate is low or medium, <i>must</i> facilitate in-person visitation. Failure to facilitate without adequate reason violates 483.10(f)(4).	Not required. Nursing homes <i>may</i> resume visitation if all prerequisites are met.	Nursing homes that have no COVID cases in last 14 days must facilitate visitation unless they have reasonable cause to restrict.
Residents on TBP or Quarantine	Residents on transmission-based precautions should receive in-person visits only in compassionate care situations.	COVID-19 positive residents, residents with COVID-19 signs or symptoms, and residents in a 14-day quarantine or observation period are not eligible for visits.	CMS allows visits in compassionate care situation. Seeking NYS clarification.
LTC Ombudsman and Disability	<i>Must</i> provide immediate access to LTC Ombudsman and P&A representative. In-	Same visitation requirements apply to LTC	Must allow access. Unclear whether 14-day waiting

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Rights P&A Programs	person access by LTC Ombudsman <i>may</i> be limited due to infection control concerns. <i>May not</i> be limited without reasonable cause. If in-person access is not advisable, facility must facilitate alternative mode of communication. <i>Must</i> allow Ombudsman to review resident records. If resident needs in-person assistance to ensure effective communication, must allow entry under ADA and Rehab Act. <i>May</i> impose safety measures.	Ombudsman as apply to other visitors.	period is allowed, when immediate access is required. Unclear whether lack of test result and failure to meet all other NYS conditions of visitation are reasonable causes to restrict.
Health Care Workers and Other Service Providers.	Health care workers who are not employees but provide direct care (such as EMS, hospice, dialysis, lab techs, rad techs, social workers, clergy), <i>must be permitted</i> to come into the facility as long as they are not subject to work exclusion or show signs or symptoms. EMS personnel do not have to be screened. All staff, individuals providing services under arrangement, and volunteers must adhere to infection prevention principles and COVID testing requirements.	<p>Medically-necessary care is allowed.</p> <p>When facility is open for visitation, allows students and trainees enrolled in programs to become licensed, registered, certified, board eligible or otherwise to complete a program for health care professionals.</p> <p>When facility is open for visitation, allows resumption of existing construction projects impacting the lives of nursing home residents that were previously approved with a revised mitigation/ prevention plan including testing, screening, PPE use, distance from residents, etc.</p>	<p>CMS – Must allow direct care workers, including social workers and clergy.</p> <p>Seeking confirmation from NYS that direct care workers/SWs/Clergy are permitted regardless of 14-day period.</p> <p>NYS limits on students and construction projects apply.</p> <p>Seeking NYS clarification re: students, trainees, medical residents/fellows.</p>
Communal Activities and Dining	Communal activities and dining <i>may</i> occur, while adhering to core principles of infection prevention.	Small group activities permissible when open for visitation and space allows for appropriate social	CMS guidance is permissive.

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	<p>Facilities <i>should</i> consider additional limitations based on COVID status of facility. Residents <i>may</i> eat in same room with social distancing. Group activities <i>may</i> be facilitated for residents who are recovered, not in isolation, not with suspected or confirmed COVID, and with social distancing, hand hygiene, and face covering.</p>	<p>distancing. No more than 10 residents and staff will be permitted to engage at any one time. Residents may be assisted to go outdoors.</p> <p>Communal dining remains suspended at this time.</p>	<p>Seeking State permission to expand communal dining and social activities.</p>