



Jim Doyle
Governor

1 WEST WILSON STREET
P O BOX 2969
MADISON WI 53701-2969

Karen E. Timberlake
Secretary

State of Wisconsin
Department of Health Services

Telephone: 608-266-8481
FAX: 608-267-0352
TTY: 888-241-9432
dhs.wisconsin.gov

Date: December 2, 2009

DQA Memo 09-050

To:	Ambulatory Surgery Centers	ASC	11
	Adult Day Care	ADC	13
	Adult Family Homes	AFH	15
	Certified Mental Health and AODA	CMHA	13
	Clinical Lab Improvement Amendments	CLIA	09
	Community Based Residential Facilities	CBRF	24
	End Stage Renal Dialysis Units	ESRD	11
	Facilities for the Developmentally Disabled	FDD	14
	Home Health Agencies	HHA	12
	Hospices	HSPCE	13
	Hospitals	HOSP	17
	Nursing Homes	NH	25
	Outpatient Rehabilitation Facilities	OPT/SP	09
	Residential Care Apartment Complexes	RCAC	16
	Rural Health Clinics	RHC	10

From: Otis Woods, Administrator
Division of Quality Assurance

Staffing of Facilities and Programs During a Pandemic

This Division of Quality Assurance (DQA) memo expands upon information previously provided in DQA Memos 09-018, 09-020 and 09-030, regarding Novel Influenza A (H1N1) / 2009 (Swine Flu).

The purpose of this memo is to identify planning resources for staffing shortages when a pandemic is occurring.

Background:

During pandemics, emergency declarations may be made by government agencies that allow waivers or variances to regulations and requirements. These waivers may address staffing criteria. Because of the differences between various provider settings, it is not practical to determine staff shortage thresholds that could trigger waivers. Although staffing waivers or variances may be considered, providers need to have plans in place to deal with staff shortages caused by pandemic illness.

Pandemic Planning For Staffing:

General pandemic planning checklists can be helpful to assure that basic staffing considerations have been addressed in a provider's pandemic plan. Samples of pandemic checklists can be found at:

Long-Term Care and Other Residential Facilities Pandemic Influenza Planning Checklist

<http://pandemicflu.gov/professional/hospital/longtermcarechecklist.html>

Home Health Care Services Pandemic Influenza Planning Checklist

<http://pandemicflu.gov/professional/hospital/healthcare.html>

Medical Offices and Clinics Checklist

<http://pandemicflu.gov/professional/hospital/medical.html>

Hospital Pandemic Influenza Planning Checklist

<http://pandemicflu.gov/professional/hospital/hospitalchecklist.html>

Other disaster or hazard planning checklists that may be helpful:

- http://www.cms.hhs.gov/SurveyCertEmergPrep/03_HealthCareProviderGuidance.asp#TopOfPage
- http://www.cms.hhs.gov/SurveyCertEmergPrep/downloads/S&C_EPChecklist_Provider.pdf
- http://www.cms.hhs.gov/SurveyCertEmergPrep/downloads/S&C_EPChecklist_Persons_LTCFacilities_Ombudsmen.pdf

In addition, providers may consider implementation of a non-punitive sick leave policy that addresses the needs of ill and symptomatic personnel and provider staffing needs during various levels of a pandemic health crisis. Staff members may report to work while symptomatic because of fear of attendance policies and place patients or residents at risk of exposure to influenza.

Components of the policy could include the following:

- The handling of personnel who develop symptoms while at work.
- Guidance regarding when personnel may return to work after having pandemic influenza.
- A system to track annual influenza vaccination of personnel. (Having a system in place to track annual vaccination will facilitate documentation and tracking of pandemic influenza vaccine in personnel.)
- During times of pandemic when different vaccines are available for multiple types of influenza, all personnel vaccinations should be tracked.

Sampling of Checklist Items Specific to Staff Shortages

- A contingency staffing plan has been developed that identifies minimum staffing needs and prioritizes critical and non-essential services on the basis of essential operations. *Some examples to consider include: meals vs. activities in a nursing home, therapy versus hydration, blood pressure medications vs. antacids, etc.* Providers need to assess the care or services that should be provided and prioritize critical items that must be done and those that may be delayed during the crisis.

- The contingency staffing plan includes a strategy for cross-training and reassignment of personnel to support critical services.
- The contingency staffing plan considers alternative strategies for scheduling work shifts in order to enable personnel to work longer hours without becoming overtired.
- Specific criteria for declaring a “staffing crisis” that would enable the use of emergency staffing alternatives.
- Strategies have been developed for supporting personnel whose family and/or personal responsibilities or other barriers prevent them from coming to work (e.g., strategies that take into account the principles of social distancing when schools are closed, care of children and elders, transportation, reasonable accommodation or state governmental mandate).
- Strategies for collaborating with local and regional planning and response groups to address widespread healthcare staffing shortages during a crisis, including the development of memorandums of advanced agreement (MAAs) and memorandums of understanding (MOUs) with regional and tribal healthcare partners. A resource that can be used for agreements can be accessed at:
<http://www.waha.org/emergencyPreparedness.aspx>

Staff is the most critical asset of programs that deliver health care services. During a pandemic or crisis, providers will need to determine how they will meet residents’ prioritized needs as internal staff resources become limited. Programs regulated by the Division of Quality Assurance (DQA) should follow the guidance provided below to determine if waivers or variances may be available for relief of staffing requirements.

Section 1135 Waivers for H1N1 Influenza Pandemic

Effective October 29, 2009, the Secretary of Health and Human Services has invoked her waiver authority under Section 1135 of the Social Security Act. This allows for the waiver or modification of certain Medicare and Medicaid requirements to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in Social Security Act programs in the emergency area and for the time periods covered by the 1135 authority.

The Centers for Medicare & Medicaid Services’ (CMS) Regional Office is authorized to issue waivers of certain Medicare and Medicaid regulations. Presently, CMS is not accepting “anticipatory” waivers. CMS has indicated that they will not be issuing waivers until there is an actual need to waive a requirement. No waivers will be granted in anticipation of needing more beds, longer patient stays or other related issues. .

Submissions by providers to conduct business under the flexibilities afforded by the Federal waiver should be sent to rochisc@cms.hhs.gov with a courtesy copy to alfred.johnson@wi.gov. (DQA).

Exceptions to State Regulations for H1N1 Influenza Pandemic

While CMS may grant exceptions to federal requirements, CMS lacks the jurisdiction to grant exceptions to state rules or regulations if required under state law. That authority rests with the Department of Health Services. The Division of Quality Assurance is aware that, in addition to requesting a waiver of a federal requirement, providers may need short-term reprieve from State of Wisconsin regulations, if so; please send those requests to Alfred Johnson, Director of the Bureau of Technology, Licensing and Education at: alfred.johnson@wi.gov.