

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

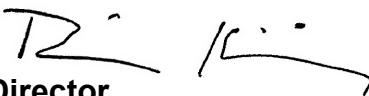
NOTICE OF PROPOSED POLICY

Public Act 280 of 1939, as amended, and consultation guidelines for Medicaid policy provide an opportunity to review proposed changes in Medicaid policies and procedures.

Please review the policy summary and the attached materials that describe the specific changes being proposed. Let us know why you support the change or oppose the change.

Submit your comments to the analyst by the due date specified. Your comments must be received by the due date to be considered for the final policy bulletin.

Thank you for participating in the consultation process.



Director,  
Bureau of Medicaid Policy, Operations, and Actuarial Services

<b>Project Number:</b> 2141-NF	<b>Comments Due:</b> November 5, 2021	<b>Proposed Effective Date:</b> October 1, 2021
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**Mail Comments to:** Michael Hart

**Telephone Number:**

**Fax Number:**

**E-mail Address:** [HartM6@michigan.gov](mailto:HartM6@michigan.gov)

**Policy Subject:** COVID-19 Response: COVID Relief Facilities to Treat COVID-19 Patients and Residents Requiring Nursing Facility Care in Limited Circumstances

**Affected Programs:** Medicaid

**Distribution:** Nursing Facilities

**Policy Summary:** This policy establishes COVID Relief (CR) Facilities to allow eligible Nursing Facilities to retain COVID-positive residents and under enhanced standards and special circumstances they will also be able to admit new COVID-positive residents when additional capacity is needed.

**Purpose:** Per Public Act 231 of 2020, this policy establishes a path for existing Medicare and Medicaid-certified NFs to enhance the continuum of NF capacity in response to COVID-19. Through designation as a CR Facilities, eligible NFs will be able to treat COVID-positive residents in-place as a mechanism to limit the risks associated with transfer, facilitate additional oversight on infection control measures to ensure safety, and increase surge capacity in a region should it be needed. An annual application and redetermination process will coincide with the effective implementation date of this policy.

**Bulletin Number:** MSA 21-40

**Distribution:** Nursing Facilities

**Issued:** October 1, 2021

**Subject:** COVID-19 Response: Policy for COVID Relief (CR) Facilities to Treat COVID-19 Residents Requiring Nursing Facility Care in Limited Circumstances

**Effective:** As Indicated

**Programs Affected:** Medicaid

## **PURPOSE**

The purpose of this policy is to update bulletin [MSA 20-73](#) and [MSA 20-78](#), issued November 16, 2020, and November 30, 2020, respectively. These policies established COVID Relief (CR) Facilities to allow eligible nursing facilities (NF) to retain COVID-positive residents and, with enhanced standards, under special circumstances they will also be able to admit new COVID-positive residents when additional capacity is needed. This policy will establish a one-year determination period from October 1 to September 30 and provide updated operational guidance for facilities.

## **CR FACILITIES DEFINED**

These NFs meet criteria established in Public Act 231 of 2020 to care for COVID-positive residents who become ill and do not meet a hospital level of care. The purpose of CR Facilities is to provide care in-place with enhanced infection control measures for individuals with confirmed COVID-19 who have not met the criteria for discontinuation of Transmission-Based Precautions and have limited access to the State's Care and Recovery Centers (CRCs). All CR Facilities must be approved by MDHHS to retain and/or readmit, after acute care, their own COVID-positive residents. All approved CR Facilities are limited to placing/admitting only residents with confirmed COVID-19 to the designated space to care for COVID-positive residents. Nursing Facilities that do not meet the criteria set forth in this policy, do not apply for DHHS approval or are otherwise not approved for CR Facility designation must transfer any COVID-positive residents to an alternate location.

Increasing the capacity of NFs to care for COVID-positive residents in-place will limit the risks associated with transfer, facilitate additional oversight on infection control measures to ensure safety, and increase surge capacity in a region should it be needed.

## MINIMUM PARTICIPATION CRITERIA

NFs must meet the following criteria to qualify for CR Facility designation (CR Tier 1):

- Facility is licensed by the Department of Licensing and Regulatory Affairs (LARA) as a Nursing Home; and
- Has a designated COVID-positive area (the designated area can include a unit, wing, or separate building; and
- Has dedicated staff to serve only COVID-positive residents; and
- Has an adequate supply of Personal Protective Equipment (PPE); and
- Has adequate testing capabilities to comply at a minimum with guidelines set forth by the Michigan Department of Health and Human Services (MDHHS), the Centers for Disease Control and Prevention (CDC), and Centers for Medicare & Medicaid Services (CMS)

CR Facilities seeking to admit new COVID-positive residents (CR Tier 2) must meet the following criteria in addition to all minimum criteria listed above.

- The NF has a rating of 2 or higher in the staffing category of the CMS Nursing Facility Compare Five-Star Rating by the date of final application approval.
- The NF is not designated by CMS in Nursing Facility Compare as a Red Hand Facility, indicating a citation for abuse.
- Has available a qualified healthcare professional designated as the Infection Preventionist ([Centers for Disease Control and Prevention](#) completed and documented).
- Has had no infection control (L-level) citations from LARA in the last six months.
- Agree to have facility contact information shared with other NFs and hospitals that may need a place to discharge or transfer COVID-positive residents.

*Note: CR Facilities approved to admit new COVID-positive residents may only do so under the special circumstances outlined within this policy.*

## CR FACILITY STANDARDS

NFs that are designated by MDHHS as a CR Facilities are expected to maintain the following standards:

**Physical plant standards.** CR Facilities must demonstrate an appropriate physical plant to support the minimum requirements through submission of a complete floor plan to MDHHS that identifies the following:

- Designated COVID area
  - Designated area can include a fully dedicated or a portion of a floor, unit, wing, separate building, or group of rooms at the end of a unit that will be used to cohort residents with COVID-19. The designated area for residents with COVID-19 should be demarcated as a reminder for healthcare personnel. Other residents should be prevented from entering the area. The residents with COVID-19 should not share a bathroom with residents outside the cohort.

- Dedicated staff entry, staff break area, and restrooms preferred; otherwise, NFs need a documented plan to ensure infection control standards are maintained
- Dedicated donning/doffing at the entrance and exit of the area, with separate areas for clean and used PPE

**Staffing standards.** CR Facilities must ensure:

- Dedicated direct care staff to work with only COVID-19-positive residents to prevent spreading the virus from infected to uninfected residents.
- Maintaining necessary supportive services as practicable while ensuring infection control standards are maintained
- Staffing plan based upon appropriate nursing and Certified Nurse Aide (CNA) ratio for the requested bed capacity and acuity of residents

**Infection control standards.** CR Facilities must ensure:

- Demonstrated capability to ensure only residents with confirmed COVID-19 are placed/admitted to the designated COVID-19 positive area. Residents who have tested positive by an antigen test may need a confirmatory RT-PCR test prior to placement in the COVID-19 unit.
- All staff dedicated to the COVID-19 care area are trained in infection control procedures, including staff with resident care duties as well as housekeeping, dietary, laundry, and other employees working in the COVID-19 care area.
- At a minimum, infection control includes hand hygiene compliance, use of transmission-based precautions, proper donning and doffing of PPE, and environmental disinfection
- The CR Facility has established policy and procedures that ensure staff compliance with infection control procedures
- The CR Facility maintains an adequate supply of all PPE with clearly identified locations for PPE donning and doffing
- PPE, hand hygiene, and disinfection products are readily available to staff working in the COVID-19 care area
  - Supply will be monitored and maintained 7 days per week
  - Facilities shall demonstrate understanding of PPE, disinfection, and hand hygiene supply chain in order to maintain adequate supply for facility operations

**Testing standards.** CR Facilities must maintain:

- Implement regular resident and staff screening procedures
- A plan for complying with testing guidance from the CDC, MDHHS, or CMS where applicable
- Testing at the end of a resident's 14-day observation period can be considered to increase probability that the resident is not infected. However, one or more negative tests during the 14-day observation period would not shorten the duration of Transmission-based Precautions, as the resident would still be in their incubation period

**CR Facility communication.** CR Facilities must maintain a communication plan that addresses:

- The presence of COVID-19 within the facility
- Process to maintain safety and supports for all residents and staff
- How the above components will be communicated with facility residents, families and legal representatives, and facility staff
- The use of virtual visitation for residents to communicate with family and friends
- If seeking to admit new residents, detail to communicate bed availability and supports available to referring entities

## **COVID RELIEF FACILITY DESIGNATION PROCESS & CHANGE REQUESTS**

All Nursing Facilities seeking to retain and/or admit residents that test positive for COVID-19 under this policy must complete the required MDHHS application. Approval is contingent upon the facility's ability to demonstrate the minimum participation requirements and CR facility standards within the required application process and subsequent assessments, which may include a review conducted either virtually or on-site by MDHHS and/or LARA staff.

If circumstances change beyond what is approved in the original application and assessment process, facilities must submit a capacity change for formal DHHS approval of the requested changes. The capacity change form is described and provided in the formal determination letter each approved facility will receive.

## **SPECIAL CIRCUMSTANCES BY WHICH A CR FACILITY CAN ACCEPT NEW COVID-POSITIVE ADMISSIONS**

CR Facilities that have been approved to do so may admit new COVID-positive residents from hospitals or residents from other NFs that are unable to properly isolate residents with confirmed COVID-19 who have not met criteria for discontinuation of [Transmission-Based Precautions](#).

In order to accept a COVID-positive admission, the following conditions must be met:

- The facility has the capacity and resources to appropriately manage the care of the COVID-positive resident seeking admission (i.e., can meet the specific care needs of the resident in the designated COVID-positive area)
- The nearest CRC is more than 25 miles away or CRCs within a 25-mile radius are at maximum COVID capacity; or
- The resident has special care needs that can be most appropriately accommodated by the CR Facility; or
- The resident or their legal representative identifies the CR Facility as the preferred NF for admission.

If none these conditions are met, then the CR Facility is required to request special exception from MDHHS prior to admission. These exceptions will be considered on a case-by-case basis. Requests for special exceptions must be submitted to [MDHHS-iPRAT@michigan.gov](mailto:MDHHS-iPRAT@michigan.gov). If the request is denied, the referring entity will be required to find another facility that is capable of safely housing the resident in question.

Additional considerations will be given during times of surge, at which point MDHHS may issue special provisions to expand the circumstances by which a nursing facility may apply to be a CR Facility or how CR Facilities are able to accept COVID-positive residents.

### **SPECIAL CIRCUMSTANCE DOCUMENTATION**

NFs admitting COVID-positive residents should maintain documentation for each new resident indicating the circumstance(s) that were met permitting admission into the CR Facility. Examples of appropriate documentation may include specialized care plan, other medical documentation indicating an increased transfer risk, distance to nearest CRC, communications with local CRCs indicating capacity constraints, etc. These items may be requested in departmental oversight and monitoring procedures for the duration of the CR Facility designation.

### **CARE AND RECOVERY CENTER DUAL DESIGNATION**

When a nursing facility applies for both Care and Recovery Center (CRC) designation under [MSA 20-72](#) or subsequent policies on the subject, in addition to CR Facility designation, the CRC designation takes precedence if the identified COVID-designated area is the same space in both applications. A facility cannot utilize the same set of rooms for both a CRC and CR Facility. If the NF is approved to be a CRC, the CR Facility designation will remain “on hold” and will take effect if a facility decommissions as a CRC. If the facility applied for CRC and CR Facility designation with a separate set of non-overlapping rooms, they may be designated for both if all other criteria are met. A facility may be required to submit an updated floorplan that identifies both COVID-positive care areas.

## **EFFECTIVE IMPLEMENTATION DATE**

This policy is effective beginning October 1, 2021. The CR Facility program will be managed on the State of Michigan fiscal year (October 1 to September 30). Facilities approved under this policy will maintain CR Facility designation through the end of the fiscal year. Every NF will be required to reapply for determination each fiscal year to maintain a COVID Relief designation. After the implementation start date:

- With the exception of facilities designated as CRCs, NFs that have not applied for or were denied CR Facility designation must transfer any COVID-positive residents to an alternate location as soon as practicable.
- NFs that have applied for CR Facility designation but have not yet received approval/denial for participation:
  - Will be permitted to retain for care an individual who has tested positive for COVID-19 until official MDHHS determination.
  - Will not be permitted to accept a new COVID-positive admission from either a hospital or other NF until and unless such approval is granted.

Additionally, NFs that have been granted a CR Facility status in the 90 days preceding the effective date of this policy will not be required to reapply for designation for the 2022 fiscal year. If changes to the recent designation are desired, those facilities may reach out to MDHHS or reapply during the open application window.

NFs will be notified of their designation status via email. MDHHS retains the right to revoke or modify designation at any time.

## **Public Comment**

The public comment portion of the policy promulgation process is being conducted concurrently with the implementation of the change noted in this bulletin. Any interested party wishing to comment on the change may do so by submitting comments to Michael Hart via e-mail at [hartm6@michigan.gov](mailto:hartm6@michigan.gov).

Please include "COVID-19 Response: Policy for COVID Relief (CR) Facilities to Treat COVID-19 Residents Requiring Nursing Facility Care in Limited Circumstances" in the subject line.

Comments received will be considered for revisions to the change implemented by this bulletin.

## **Manual Maintenance**

Information in this bulletin is time-limited and will not be incorporated into any policy or procedure manuals.

## Questions

Any questions regarding this bulletin should be directed to Provider Inquiry, Department of Health and Human Services, P.O. Box 30731, Lansing, Michigan 48909-8231, or e-mailed to [ProviderSupport@michigan.gov](mailto:ProviderSupport@michigan.gov). When you submit questions, be sure to include your name, affiliation, NPI number, and phone number so you may be contacted if necessary. Typical Providers may phone toll-free 1-800-292-2550. Atypical Providers may phone toll-free 1-800-979-4662.

## Approved

A handwritten signature in black ink, appearing to read 'K. Massey', with a long horizontal flourish extending to the right.

Kate Massey, Director  
Medical Services Administration