Medicare COVID-19 PHE Waivers & Flexibilities (Terminated)

Effective Date	Waiver/Flexibility Title and Description	Relevant Regulatory Citations/Statutory Authorities	Type	Form	Termination Date
03/01/2020	**Staffing Data Submission.** CMS is waiving 42 CFR 483.70(q) to provide relief to long-term care facilities on the requirements for submitting staffing data through the Payroll-Based Journal system. **Submission of staffing data through the Payroll Based Journal system was reinstated on June 25, 2020.**	42 CFR § 483.70(q) Section 1128I(g) of the SSA	1135 Waiver	Blanket Waiver	06/25/2020
03/01/2020	**Reporting Minimum Data Set.** CMS temporarily waived 42 CFR §483.20 to provide relief to skilled nursing facilities (SNFs) on the timeframe requirements for Minimum Data Set assessments and transmission. **Reporting of Minimum Data Set was reinstated May 10, 2021**	42 CFR § 483.20 Section 1819(b)(3)(A) of the SSA	1135 Waiver	Blanket Waiver	05/10/2021
03/01/2020	**Resident Roommates and Grouping.** CMS temporarily waived the requirements in 42 CFR 483.10(e)(5), (6), and (7) solely for the purposes of grouping or cohorting residents with respiratory illness symptoms and/or residents with a confirmed diagnosis of COVID-19, and separating them from residents who are asymptomatic or tested negative for COVID-19. This action waived a facility's requirements, under 42 CFR 483.10, to provide for a resident to share a room with their roommate of choice in certain circumstances, to provide notice and rationale for changing a resident's room, and to provide for a resident's refusal a transfer to another room in the facility. **This waiver was partially terminated (only requirements at 483.10(6)) on 5/10/2021 per QSO-21-17. This section is specific to the requirement of prior notice before changes in the residents room location or roommate.** **The waiver of requirements at 42 CFR § 483.10(e)(5) and (7) is still in place to allow the facility to move the resident's room location or roommate for the purposes of isolation and/or cohorting due to COVID-19.**	42 CFR § 483.10(e)(5), (6), and (7) Section 1819(c)(1)(A)(v)(I)(II) of the SSA	1135 Waiver	Blanket Waiver	05/10/2021
03/01/2020	**Resident Transfer and Discharge.** CMS temporarily waived requirements in 42 CFR 483.10(c)(5); 483.15(c)(3), (c)(4)(ii) and (d); and § 483.21(a)(1)(i), (a)(2)(i), and (b) (2)(i), with some exceptions noted below, to allow a long-term care facility to transfer or discharge residents to another LTC facility solely for the following cohorting purposes: 1. Transferring residents with symptoms of a respiratory infection or confirmed diagnosis of COVID-19 to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents. 2. Transferring residents without symptoms of a respiratory infection, or confirmed to not have COVID-19, to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents to prevent them from acquiring COVID-19, as well as providing treatment or therapy for other conditions as required by the resident's plan of care.	42 CFR § 483.10(c)(5) 42 CFR § 483.15(c)(3), (c)(4)(ii) 42 CFR § 483.21(a)(1)(i), (a)(2)(i), (b)(2)(i) Section 1819(c)(2)(A) of the SSA	1135 Waiver	Blanket Waiver	05/10/2021

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	3. Transferring residents without symptoms of a respiratory infection to another facility that agrees to accept each specific resident to observe for any signs or symptoms of a respiratory infection over 14 days. Exceptions: • These requirements are only waived in cases where the transferring facility receives confirmation that the receiving facility agrees to accept the resident to be transferred or discharged. Confirmation may be in writing or verbal. If verbal, the transferring facility needs to document the date, time, and person that the receiving facility communicated agreement. • In § 483.10, CMS only waived the requirement, under § 483.10(c)(5), that a facility provide advance notification of options relating to the transfer or discharge to another facility. Otherwise, all requirements related to § 483.10 continue to apply. Similarly, in § 483.15, we are only waiving the requirement, under § 483.15(c)(3), (c)(4)(iii) (which was terminated on 05/10/2021), (c)(5)(i) and (iv), and (d), for the written notice of transfer or discharge to be provided before the transfer or discharge. This notice must be provided as soon as practicable. • In § 483.21, CMS only waived the timeframes for certain care planning requirements for residents who are transferred or discharged for the purposes explained in 1–3 above. Receiving facilities should complete the required care plans as soon as practicable, and we expected receiving facilities to review and use the care plans for residents from the transferring facility, and adjust as necessary to protect the health and safety of the residents they apply to. • These requirements are also waived when transferring residents to another facility, such as a COVID-19 isolation and treatment location, with the provision of services “under arrangements,” while remaining consistent with a state’s emergency preparedness or pandemic plan, or as directed by the local or state health department. In these cases, the transferring LTC facility need not issue a formal discharge, as it is still considered the resident’s provider and should bill Medicare normally for each day of care. The transferring LTC facility is then responsible for reimbursing the other provider that accepted its resident(s) during the emergency period. • If the LTC facility does not intend to provide services under arrangement, the COVID-19 isolation and treatment facility is the responsible entity for Medicare billing purposes. The LTC facility should follow the procedures described in 40.3.4 of the Medicare Claims Processing Manual to submit a discharge bill to Medicare. The COVID-19 isolation and treatment facility should then bill Medicare appropriately for the type of care it is providing for the beneficiary. If the COVID-19 isolation and treatment facility is not yet an enrolled provider, the facility should enroll through the provider enrollment hotline for the Medicare Administrative Contractor that services their geographic area to establish temporary Medicare billing privileges. LTC facilities are responsible at all times, including throughout the duration of these waivers, for ensuring that any transfers (either within a facility, or to another facility) are conducted in a safe and orderly manner, and that each resident’s health and safety is protected. In addition, under 42 CFR 488.426(a)(1), in an emergency, the state has the authority to transfer Medicaid				

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	and Medicare residents to another facility. **This waiver was partially terminated (only requirements at 42 CFR § 483.15((c)(4)(ii), § 483.21(a)(1)(i), (a)(2)(i), and (b) (2)(i)) on 5/10/2021 per QSO-21-17. This section is specific to the timing of notices before changes in the residents room location or roommate. The waiver remains in place for a facility to transfer and/or discharge a resident for the purposes of isolation or cohorting due to COVID-19.**				
03/01/2020	**Resident Groups.** CMS temporarily waived the requirements at 42 CFR § 483.10(f)(5), which ensure residents can participate in-person in resident groups. While active, this waiver permitted the facility to restrict in-person meetings, given the recommendations at that time for social distancing and limiting gatherings of more than ten people.	42 CFR § 483.10(f)(5) Section 1819(c)(1)(A)(vii) of the SSA	1135 Waiver	Blanket Waiver	05/07/2022
03/01/2020	**Physician Services: Physician Visits.** CMS temporarily waived the requirement at 42 CFR § 483.30(c)(3) that all requires physician visits (not already exempted in 42 CFR § 483.30(c)(4) and (f)) must be made by the physician personally. We are modified this provision to permit physicians to delegate any required physician visit to a nurse practitioner, physician assistant, or clinical nurse specialist who is not an employee of the facility, who is working in collaboration with a physician, and who is licensed by the state and performing within the state's scope of practice laws. These actions assisted in preventing and addressing potential staffing shortages, maximizing the use of medical personnel, and protecting the health and safety of residents during the PHE. CMS did not waive the requirements for the frequency of required physician visits at 42 CFR § 483.30(c)(1), and only modified the requirement to allow for the requirement to be met by a nurse practitioner, physician assistant, or clinical nurse specialist, and the requirement 42 CFR 483.30 for physicians and non-physician practitioners to perform in-person visits for nursing home residents and allow visits to be conducted, as appropriate, via telehealth options. CMS did not waive requirements for physician supervision in 42 CFR § 483.30(a)(1), or the requirement at 42 CFR § 483.30(d)(3) for the facility to provide or arrange for the provision of physician services 24 hours a day, in case of an emergency.	42 CFR § 483.30(c)(3) Section 1819(6)(A)(B) of the SSA	1135 Waiver	Blanket Waiver	05/07/2022
03/01/2020	**Physician Visits in Skilled Nursing Facilities/Nursing Facilities.** CMS temporarily waived the requirement in 42 CFR 483.30 for physicians and non-physician practitioners to perform in-person visits for nursing home residents, and allowed visits to be conducted, as appropriate, via telehealth options.	42 CFR § 483.30 Section 1819(6)(A)(B) of the SSA	1135 Waiver	Blanket Waiver	05/07/2022

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03/01/2020	**Physician Delegation of Tasks in SNFs.** CMS temporarily waived the requirement in 42 CFR § 483.30(e)(4) that prevents a physician from delegating a task when the regulations specify that the physician must perform it personally. This waiver gave physicians the ability to delegate any tasks to a physician assistant, nurse practitioner, or clinical nurse specialist who meets the applicable definition in 42 CFR 491.2 or, in the case of a clinical nurse specialist, is licensed as such by the state and is acting within the scope of practice laws as defined by state law. CMS temporarily modified this regulation to specify that any task delegated under this waiver must continue to be under the supervision of the physician. This waiver did not include the provision of § 483.30(e)(4) that prohibits a physician from delegating a task when the delegation is prohibited under state law or by the facility's own policy.	42 CFR § 483.30(e)(4) Section 1819(b)(6)(A) of the SSA	1135 Waiver	Blanket Waiver	05/07/2022
03/01/2020	**Quality Assurance and Performance Improvement (QAPI)**. CMS temporarily modified certain requirements in 42 CFR § 483.75, which requires long-term care facilities to develop, implement, evaluate, and maintain an effective, comprehensive, data-driven QAPI program. Specifically, CMS modified 42 CFR § 483.75(b)–(d) and (e)(3) to the extent necessary to narrow the scope of the QAPI program to focus on adverse events and infection control.	42 CFR § 483.75(b)–(d) and (e)(3) Section 1819(b)(1)(B) of the SSA	1135 Waiver	Blanket Waiver	05/07/2022
03/01/2020	**Detailed Information Sharing for Discharge Planning for Long-Term Care (LTC) Facilities.** CMS temporarily waived the discharge planning requirement in 42 CFR § 483.21(c)(1)(viii), which requires LTC facilities to assist residents and their representatives in selecting a post-acute care provider using data, such as standardized patient assessment data, quality measures, and resource use. This temporary waiver provided facilities the ability to expedite discharge and movement of residents among care settings. CMS maintained all other discharge planning requirements, including ensuring that the discharge needs of each resident are identified and result in the development of a discharge plan for each resident; and involving the interdisciplinary team, as defined at 42 CFR § 483.21(b)(2)(ii), in the ongoing process of developing the discharge plan address the resident's goals of care and treatment preferences.	42 CFR § 483.21(c)(1)(viii) Section 1819 (c) (2) (C) of the SSA	1135 Waiver	Blanket Waiver	05/07/2022
03/01/2020	**Clinical Records.** Pursuant to section 1135(b)(5) of the Act, CMS temporarily modified the requirement at 42 CFR § 483.10(g)(2)(ii) which requires long-term care (LTC) facilities to provide a resident a copy of their records within two working days (when requested by the resident). Specifically, CMS modified the timeframe requirements to allow LTC facilities ten working days to provide a resident's record rather than two working days.	42 CFR § 483.10(g)(2)(ii) Section 1819 (f)(5)(F) of the SSA	1135 Waiver	Blanket Waiver	05/07/2022

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03/01/2020	**Physical Environment for SNF/NFs.** CMS is temporarily waiving certain requirements at 42 CFR § 483.90. Provided that the state has approved the location as one that sufficiently addresses safety and comfort for patients and staff, CMS temporarily waived requirements under 42 CFR § 483.90 to allow for a non-SNF building to be temporarily certified and available for use by a SNF in the event there are needs for isolation processes for COVID-19 positive residents, which may not be feasible in the existing SNF structure to ensure care and services during treatment for COVID-19 are available while protecting other vulnerable adults. CMS is also waiving certain conditions of participation and certification requirements for opening a NF if the state determines there is a need to quickly stand up a temporary COVID-19 isolation and treatment location. CMS is also temporarily waiving requirements under 42 CFR § 483.90 to temporarily allow for rooms in a long-term care facility not normally used as a resident's room, to be used to accommodate beds and residents for resident care in emergencies and situations needed to help with surge capacity. Rooms that may be used for this purpose include activity rooms, meeting/conference rooms, dining rooms, or other rooms, as long as residents can be kept safe, comfortable, and other applicable requirements for participation are met. This can be done so long as it is not inconsistent with a state's emergency preparedness or pandemic plan, or as directed by the local or state health department.	42 CFR § 483.90 Section 1819 (d)(3)(B) of the SSA	1135 Waiver	Blanket Waiver	06/06/2022
03/01/2020	**Training and Certification of Nurse Aides.** CMS temporarily waived the requirements at 42 CFR § 483.35(d), (except for 42 CFR § 483.35(d)(1)(i)), which require that a SNF and NF may not employ anyone for longer than four months unless they met the training and certification requirements under 42 CFR § 483.35(d). CMS is waiving these requirements to assist in potential staffing shortages seen with the COVID-19 pandemic. To ensure the health and safety of nursing home residents, CMS did not waive 42 CFR § 483.35(d)(1)(i), which requires facilities to not use any individual working as a nurse aide for more than four months, on a full-time basis, unless that individual is competent to provide nursing and nursing related services. In addition, CMS did not waive 42 CFR § 483.35(c), which requires facilities to ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care. **This waiver was "conditionally terminated". Facilities that still experience barriers to nurse aide certification may still work under a waiver, per QSO-22-15--NH & NLTC & LSC.** **Nurse aides hired under the current waiver (on or before June 6, 2022) have until October 6, 2022 to complete a NATCEP**	42 CFR § 483.35(d) Section 1819(5)(A)(i)(I)(II) of the SSA	1135 Waiver	03/01/2020	06/06/2022

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03/01/2020	**In-Service Training for LTC Facilities.** CMS temporarily waived the nurse aide training requirements at 42 CFR § 483.95(g)(1) for SNFs and NFs, which require the nursing assistant to receive at least 12 hours of in-service training annually. In accordance with section 1135(b)(5) of the Social Security Act, we postponed the deadline for completing this requirement. **Nurse aides hired prior to and under the current waiver (on or before June 6, 2022) will have 12 months from this date to complete the required annual training.**	42 CFR § 483.95(g)(1) Section 1819(b)(5)(E) of the SSA	1135 Waiver	Blanket Waiver	06/06/2022
03/01/2020	**Paid Feeding Assistants for LTC Facilities.** CMS temporarily modified the requirements at 42 CFR § 483.60(h)(1)(i) and 483.160(a) regarding required training of paid feeding assistants. Specifically, CMS is modified the minimum timeframe requirements in these sections, which require this training to be a minimum of 8 hours. CMS modified the requirement to allow that the training can be a minimum of 1 hour in length. CMS did not waive any other requirements under 42 CFR § 483.60(h) related to paid feeding assistants or the required training content at 42 CFR § 483.160(a)(1)-(8), which contains infection control training and other elements. Additionally, CMS did not waive or modify the requirements at 42 CFR § 483.60(h)(2)(i), which require that a feeding assistant must work under the supervision of a registered nurse or licensed practical nurse.	42 CFR § 483.60(h)(1)(i) 42 CFR § 483.160(a) Section 1819 (b)(4)(B) of the SSA	1135 Waiver	Blanket Waiver	06/06/2022
03/01/2020	**Facility and Medical Equipment Inspection, Testing & Maintenance under the Physical Environment Conditions of Participation.** CMS temporarily waived certain physical environment requirements at 42 CFR §482.41(d) for hospitals, §485.623(b) for critical access hospitals, §418.110(c)(2)(iv) for inpatient hospice, §483.470(j) for Intermediate Care Facilities for Individuals with Intellectual Disabilities; and §483.90 for SNFs/NFs to permit these facilities to adjust scheduled inspection, testing, and maintenance frequencies and activities for facility and medical equipment. **This waiver was partially terminated at 42 CFR § 418.110(c)(2)(iv) for inpatient hospice, 42 CFR § 483.470(j) for ICF/IID and 42 CFR § 483.90(a)(1) and (b) for SNFs/NF on 06-06-2022 per QSO-22-15-NH & NLTC & LSC.**	42 CFR § 482.41(d) 42 CFR § 485.623(b) 42 CFR § 418.110(c)(2)(iv) 42 CFR § 483.470(j) 42 CFR § 483.90(a)(1), (b) Sections 1819 and 1919 of Titles 18 and 19 of the SSA	1135 Waiver	Blanket Waiver	06/06/2022

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03/01/2020	**Life Safety Code (LSC) and Health Care Facilities Code (HCFC) ITM under the Physical Environment Conditions of Participation**. CMS temporarily modified the provisions at 42 CFR §482.41(b)(1)(i) and (c) for hospitals, §485.623(c)(1)(i) and (d) for CAHs, §482.41(d)(1)(i) and (e) for inpatient hospices, §483.470(j)(1)(i) and (5)(v) for ICF/IIDs, and §483.90(a)(1)(i) and (b) for SNFs/NFs to the extent necessary to permit these facilities to adjust scheduled inspection, testing, and maintenance frequencies and activities required by the LSC and HCFC. The following LSC and HCFC activities are considered critical were not included in this waiver: • Sprinkler system monthly electric motor-driven and weekly diesel engine-driven fire pump testing. • Portable fire extinguisher monthly inspection. • Elevators with firefighters' emergency operations monthly testing. • Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing. • Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency. **This waiver was partially terminated at 42 CFR § 418.110(c)(2)(iv) for inpatient hospice, 42 CFR § 483.470(j) for ICF/IID and 42 CFR § 483.90(a)(1) and (b) for SNFs/NF on 06-06-2022 per QSO-22-15-NH & NLTC & LSC.**	42 CFR § 482.41(d) 42 CFR § 485.623(b) 42 CFR § 418.110(c)(2)(iv) 42 CFR § 483.470(j) 42 CFR § 483.90(a)(1), (b) Sections 1819 and 1919 of Titles 18 and 19 of the SSA	1135 Waiver	Blanket Waiver	06/06/2022
03/01/2020	**Outside Windows and Doors under the Physical Environment Conditions of Participation**. CMS temporarily waived the requirements at 42 CFR §483.470(e)(1)(i) for ICF/IIDs, and §483.90(a)(7) for SNFs/NFs required these facilities to have an outside window or outside door in every sleeping room. CMS permitted a waiver of these outside window and outside door requirements to permit these providers to utilize facility and non-facility space that is not normally used for patient care to be utilized for temporary patient care or quarantine. **This waiver was partially terminated (only requirements at §483.470(e)(1)(i) for ICF/IID and §483.90(a)(7) for SNFs/NFs) on 06/06/2022 per QSO-22-15-NH & NLTC & LSC.**	42 CFR § 482.41(d) 42 CFR § 485.623(b) 42 CFR § 418.110(c)(2)(iv) 42 CFR § 483.470(j) 42 CFR § 483.90(a)(1), (b) Sections 1819 and 1919 of Titles 18 and 19 of the SSA	1135 Waiver	Blanket Waiver	06/06/2022

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03/01/2020	**Specific Life Safety Code (LSC) for Multiple Providers: Temporary Construction.** CMS temporarily waived requirements that would otherwise not permit temporary walls and barriers between patients. Refer to: 2012 LSC, sections 18/19.3.3.2. **This waiver was partially terminated (only requirements §418.110(d) for inpatient hospice; §483.470(j) for ICF/IIDs; and §483.90(a) for SNF/NFs) for temporary construction on 06/06/2022 per QSO-22-15-NH & NLTC & LSC.**	42 CFR § 418.110(d) 42 CFR § 483.470(j) 42 CFR § 483.90(a) Sections 1819 and 1919 of Titles 18 and 19 of the SSA	1135 Waiver	Blanket Waiver	06/06/2022
03/01/2020	**Specific Life Safety Code (LSC) for Multiple Providers: Fire Drills.** Due to the inadvisability of quarterly fire drills that move and mass staff together, CMS instead temporarily permitted a documented orientation training program related to the current fire plan, which considers current facility conditions. The training was required to instruct employees, including existing, new or temporary employees, on their current duties, life safety procedures and the fire protection devices in their assigned area. Refer to: 2012 LSC, sections 18/19.7.1.6 **This waiver was partially terminated (only requirements at §418.110(d) for inpatient hospice; §483.470(j) for ICF/IIDs; and §483.90(a) for SNF/NFs) for fire drills on 06/06/2022 per QSO-22-15-NH & NLTC & LSC.**	42 CFR § 418.110(d) 42 CFR § 483.470(j) 42 CFR § 483.90(a) Sections 1819 and 1919 of Titles 18 and 19 of the SSA	1135 Waiver	Blanket Waiver	06/06/2022
03/01/2020	**Equipment Maintenance & Fire Safety Inspections for ESRD Facilities**. CMS temporarily waived the requirements at 42 CFR § 494.60(b) and 42 CFR § 494.60(d) to reduce non-essential people entering the facility to reduce risk of exposure to the virus.	42 CFR § 494.60(b) 42 CFR § 494.60(d) Sections 1819 and 1919 of Titles 18 and 19 of the SSA	1135 Waiver	Blanket Waiver	06/06/2022
03/01/2020	**Provider Enrollment - Waive Enrollment Site Visits.** CMS temporarily waived requirements for site visits upon enrollment for moderate and high-risk providers/suppliers or other enrollment-related site visits. **MACs have resumed all provider enrollment site visits.**	42 CFR §424.517 42 CFR §424.518	1135 Waiver	Blanket Waiver	07/06/2020
03/01/2020	**Provider Enrollment - Waive Criminal Background Checks/Fingerprinting.** CMS temporarily waived requirements for fingerprints for 5% or greater direct or indirect owners of newly enrolling high-risk providers/suppliers. **MACs have resumed requesting fingerprints for all newly enrolling high risk providers and suppliers.**	42 CFR § 424.518	1135 Waiver	Blanket Waiver	10/31/2021

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03/01/2020	**Provider Enrollment - Waive Revalidation Actions.** CMS temporarily postponed all revalidation actions. This did not prevent a provider who wanted to submit a revalidation application from doing so; the MAC still processed revalidation applications. **CMS resumed a phased-in approach to revalidation activities; revalidation letters began being mailed again in October 2021 with due dates in early 2022.**	42 CFR § 424.515 42 CFR § 424.57(g)	1135 Waiver	Blanket Waiver	10/31/2021
03/01/2020	**Provider Enrollment - Waive Application Fees.** CMS temporarily waived the collection of application fees for institutional providers who are initially enrolling, revalidating, or adding a new practice location. Only institutional providers are generally required to submit application fees under current regulation. Institutional providers include entities such as hospitals, skilled nursing facilities (SNFs), and independent clinical laboratories. See Application Fee requirements for Institutional Providers (cms.gov). **CMS has resumed collecting application fees.**	42 CFR § 424.514	1135 Waiver	Blanket Waiver	10/31/2021
03/01/2020	**Provider Enrollment – Waive DME Accreditation Requirement.** CMS temporarily waived accreditation requirements for newly enrolling DMEPOS suppliers and extended any expiring supplier accreditation for a 90-day time period. **The National Supplier Clearinghouse (NSC) has resumed all accreditation/reaccreditation activities, including associated surveys.**	42 CFR § 424.57	1135 Waiver	Blanket Waiver	07/06/2020
03/01/2020	**Provider Enrollment – DMEPOS Supplier Standards.** CMS temporarily waived enforcement of the following DME supplier standards: maintain a physical facility on an appropriate site (no. 7); maintain a primary business telephone that is operating at the appropriate site listed under the name of the business locally or toll-free for beneficiaries (no. 9); and except as specified in 42 C.F.R. § 424.57(c)(30)(ii), stay open to the public a minimum of 30 hours per week (no. 30). **The National Supplier Clearinghouse (NSC) has resumed the enforcement of all referenced supplier standards.**	42 CFR § 424.57(c)(7), (c)(9), and (c)(30)	1135 Waiver	Blanket Waiver	07/06/2020