

# United States Senate

WASHINGTON, DC 20510

May 28, 2020

Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Dr. Robert R. Redfield  
Director  
Centers for Disease Control and Prevention  
1600 Clifton Road  
Atlanta, GA 30329

Dear Administrator Verma and Director Redfield:

Residents of long-term care facilities, including nursing homes, residential-care communities, intermediate care facilities, and hospice-care facilities, face difficult challenges as efforts to contain and mitigate the spread of COVID-19 continue. Significant restrictions on daily group activities and on in-person contact with family and loved ones are rightfully in place to protect residents and limit the spread of COVID-19 among particularly vulnerable populations. However, this sustained isolation is also impacting the mental and emotional well-being of residents and their families. We write to request that the CDC issue guidance that provides clear, measurable benchmarks that these facilities must meet to safely reopen their doors to visitors, and steps that visitors must take to ensure the safety of residents and family members when in-person visitation resumes.

The ability of long-term care facilities to safely expand in-person visitation beyond compassionate care visits will take time, and will require a significant investment from facilities and personnel, along with support from CDC, CMS and local public health officials. Reopening these facilities to limited or full public visitation will also be contingent on the degree to which states and localities are able to limit community spread of COVID-19. Fact and evidence-based guidance from CDC that prioritizes safety, and provides measurable benchmarks, realistic timelines, and clear direction to visitors would provide residents and families with a measure of much-needed clarity that they currently lack. Additionally, coordinated guidance from CDC and CMS that provides family members and loved ones with a plain language description of the safety protocols that they will be required to adhere to when in-person visitation resumes, along with an explanation of the importance of these protocols, will improve the likelihood that safety measures are understood and followed by facilities and visitors alike.

On Monday, May 18, the Centers for Disease Control and Prevention (CDC) released a COVID-19 guidance document titled *CDC Activities and Initiatives Supporting the COVID-19 Response and the*

*President's Plan for Opening America Up Again.*<sup>1</sup> While this document acknowledges that special consideration should be given to cases identified in locations such as nursing homes and other long-term care facilities, and includes a specific recommendation to monitor health care personnel and residents of these facilities,<sup>2</sup> it does not provide actionable information or guidance that would allow residents of long-term care facilities, and their families, to understand the potential risk posed to their loved ones during visitation, or the precautions and safety protocols visitors should be taking to mitigate the risk of infection during visitation.

In addition, the Centers for Medicare and Medicaid Services (CMS) released a guidance document titled *Nursing Home Reopening Recommendations for State and Local Officials*,<sup>3</sup> which provides a list of factors and protocols that Medicare- and Medicaid-certified long-term care facilities should consider related to reopening. This guidance provides basic criteria that a facility must meet before establishing visitation policies, beginning with limited allowances for compassionate care prior to implementation of a broader visitation policy that would be contingent on the availability of “screening and additional precautions.”<sup>4</sup> However, it does not provide facilities with implementation guidelines, technical assistance, or evidence-based best practices that will help ensure safety during reopening, or adequate surveillance, containment and mitigation when reopening occurs.

These two guidance documents do not sufficiently address the specific needs of these particularly vulnerable populations, including the need for specific, clear and actionable information that allows them to understand when in-person visitation could potentially resume in their community, what factors they should consider when evaluating the risks of in-person visitation, what precautions they should take during in-person visitation, and what screening measures and additional precautions they should be expecting, and asking for, in order to ensure that they are able to visit safely.

In addition to releasing specific, plain language guidance on in-person visitation in long-term care facilities, we ask that CDC and CMS jointly respond to the following questions in writing, no later than July 1, 2020.

1. Do CDC and CMS believe the guidance titled “Nursing Home Reopening Recommendations for State and Local Officials” is sufficient, both in its scope and level of detail, such that it should serve as federal guidance for safe reopening of other long-term care facilities such as residential care centers, hospice centers, and adult day care centers? If not, what additional guidance will CDC or CMS release directed at those facilities, and when will it be released?
2. CDC broadly defines long-term care to include adult day services centers, home health care, hospice care, nursing home care, and residential care communities. How do you plan to develop and disseminate guidance that can be used by patients, residents and family members to appropriately evaluate the safety and risk in each of these unique settings as visitation restrictions

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<sup>1</sup>Centers for Disease Control and Prevention. “CDC Activities and Initiatives Supporting the COVID-19 Response and the President’s Plan for Opening Up America Again.” Available at: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/php/CDC-Activities-Initiatives-for-COVID-19-Response.pdf>

<sup>2</sup> Id at 35

<sup>3</sup> Centers for Medicare and Medicaid Services. “Nursing Home Reopening Recommendations for State and Local Officials.” Available at: <https://www.cms.gov/files/document/nursing-home-reopening-recommendations-state-and-local-officials.pdf>

<sup>4</sup> Id at 7.

are relaxed? How does CMS plan to ensure that facilities under its jurisdiction receive the guidance?

3. Have CDC and CMS considered how guidance and communication must differ for each of the types of facilities described in question 2 above, and determined whether any additional data should be collected in order to protect against outbreaks, and mitigate future outbreaks, within each of these settings while using consistent, coordinated, evidence-based practices to ensure that residents and workers are kept safe?
4. How will CDC and CMS disseminate information to the public, or recommend steps states and localities can take in order to ensure that the necessary communication is taking place to educate visitors on requirements and best practices prior to visiting facilities?
5. Given the lack of widely available rapid testing, and increased evidence that many rapid tests on the market are regularly producing inaccurate results, what guidance will CDC issue to ensure that any plan to test residents, frontline healthcare workers, and visitors, is yielding results that can be relied upon to ensure safety on an ongoing basis?
6. How will CDC or CMS issue specific guidance to facilities that clarifies whether visitors should be tested, and how frequently those tests should occur, along with guidance on how facilities can secure sufficient testing capacity to meet those requirements?
7. Do long-term care facilities currently have the infrastructure, resources and support needed to successfully reopen and allow in-person visitation when safety measures are met, or are additional resources required to meet these goals?

We appreciate your attention to this important matter.

Sincerely,

/s/ Margaret Wood Hassan

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Margaret Wood Hassan  
United States Senator

/s/ Robert P. Casey, Jr.

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Robert P. Casey, Jr.  
United States Senator

/s/ Sherrod Brown

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Sherrod Brown  
United States Senator

/s/ Chris Van Hollen

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Chris Van Hollen  
United States Senator

/s/ Jack Reed

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Jack Reed  
United States Senator

/s/ Elizabeth Warren

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Elizabeth Warren  
United States Senator

/s/ Jeffrey A. Merkley

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Jeffrey A. Merkley  
United States Senator

/s/ Jeanne Shaheen

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Jeanne Shaheen  
United States Senator