Requirements for Intermediate Care Facilities (ICF) that have been Modified, Waived, or Clarified by the Centers for Medicare and Medicaid Services (CMS)

Code of Federal Regulation Citation	Requirement(s)	Guidance
42 CFR § 483.420(a)(9) Condition of participation: Client protections; Standard: Protection of clients' rights	(a)(9) Ensure clients the opportunity to communicate, associate and meet privately with individuals of their choice, and to send and receive unopened mail;	CMS is modifying this requirement to allow the use of telehealth and assistive technology to minimize social isolation to the extent possible.
42 CFR § 483.420(a)(11) Condition of participation: Client protections; Standard: Protection of clients' rights CMS Blanket Waiver	(a)(11) Ensure clients the opportunity to participate in social, religious, and community group activities;	CMS is waiving this requirement. The federal and/or state emergency restrictions will dictate the level of restriction from the community based on whether it is for social, religious, or medical purposes. CMS is authorizing the facility to implement social distancing precautions with respect to on and off-campus movement. State and federal restrictive measures should be made in the context of competent, person-centered planning for each client. Pennsylvania's guidance on responding to COVID-19 can be found here.
42 CFR § 483.430(c)(4) Condition of participation: Facility staffing; Standard: Facility staffing CMS Blanket Waiver	(c)(4) The facility must provide sufficient support staff so that direct care staff are not required to perform support services to the extent that these duties interfere with the exercise of their primary direct client care duties.	CMS is waiving this requirement. Direct Support Staff (DSS) perform activities such as cleaning the facility, cooking, and laundry services. Direct Care Staff (DCS) perform activities such as teaching clients appropriate hygiene, budgeting, or effective communication and socialization skills. During the time of this waiver, DCS may be needed to conduct some of the activities normally performed by the DSS. This will allow facilities to adjust staffing patterns, while maintaining the minimum staffing ratios required at § 483.430(d)(3).
42 CFR § 483.430(e)(1)	(e)(1) The facility must provide each employee with initial and continuing training that enables the employee to perform his	CMS is waiving the requirement in 42 CFR § 483.430(e)(1) only as it relates to routine staff training programs unrelated to the Public

Condition of participation: Facility staffing; Standard: Staff training program CMS Blanket Waiver	or her duties effectively, efficiently, and competently.	Health Emergency (PHE). CMS has clarified that ICFs must continue to conduct initial training for new staff hires or training for staff around prevention and care for the infection control of COVID-19. It is critical that new staff gain the necessary skills and understanding of how to effectively perform their role as they work with this complex client population and that staff understand how to prevent and care for clients with COVID-19.
42 CFR § 483.440(a)(1) Condition of participation: Active treatment services; Standard: Active treatment CMS Blanket Waiver	(a)(1) Each client must receive a continuous active treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services . . . that is directed toward - (i) The acquisition of the behaviors necessary for the client to function with as much self determination and independence as possible; and (ii) The prevention or deceleration of regression or loss of current optimal functional status.	CMS recognizes that during the PHE, active treatment will need to be modified. ICFs are still required to implement the components of a client's active treatment program that do not violate current state and local requirements for social distancing, staying at home, and traveling for essential services only. ICFs are not required to implement those components of a client's active treatment program that would violate current state and local requirements for social distancing, staying at home, and traveling for essential services only. For example, although day habilitation programs and supported employment are important opportunities for training and socialization of clients at ICFs, these programs may pose too high of a risk to staff and clients for exposure to a person with suspected or confirmed COVID-19, and therefore those components of the client's active treatment plan do not need to be implemented during the PHE. ICFs can stay current with Pennsylvania's guidance on masks, social distancing, and travel by checking here frequently. When there are elements of a client's active treatment plan that cannot be implemented as described above, ODP strongly encourages ICFs to modify a client's active treatment program to include alternative activities that can be delivered and that meet the client's needs. Any modification to a client's Individual Program Plan (IPP) in response to treatment changes associated with the COVID-19 crisis requires the approval of the interdisciplinary team. For facilities that have interdisciplinary team members who are unavailable due to the COVID-19, CMS will allow for a retroactive review of the IPP under § 483.440(f)(2) in order to allow IPPs to

		receive modifications as necessary based on the impact of the COVID-19 crisis. ODP has determined that the completion of a retroactive review should be done within 6 months.
42 CFR § 483. 440(c)(1) Condition of participation: Active treatment services; Standard: Individual program plan	(c)(1) Each client must have an individual program plan developed by an interdisciplinary team that represents the professions, disciplines or service areas that are relevant to - (i) Identifying the client's needs, as described by the comprehensive functional assessments required in paragraph (c)(3) of this section; and (ii) Designing programs that meet the client's needs.	Clients who are admitted on a temporary emergency basis to an ICF during the PHE will continue to need to have a Comprehensive Functional Assessment (CFA) and an IPP in accordance with 42 CFR § 483.440(c). Completion of these documents will provide an opportunity for the interdisciplinary team and staff to assess the basic and critical care needs of the client. CMS is aware that staffing shortages and/or client surges due to the PHE may create a high demand on available staff time that makes it difficult to complete a full CFA and IPP. Each ICF will need to evaluate what amount and detail of documentation is necessary to ensure that critical health and treatment information is identified to allow active treatment during the PHE. This health and treatment information will support successful adjustment for the client to the new temporary living environment. When available and if appropriate, the interdisciplinary team should maximize the use of telehealth for the development of a client's IPP for temporary emergency admissions during the PHE.
42 CFR § 483. 440(c)(3) Condition of participation: Active treatment services; Standard: Individual program plan	(c)(3) Within 30 days after admission, the interdisciplinary team must perform accurate assessments or reassessments as needed to supplement the preliminary evaluation conducted prior to admission. The comprehensive functional assessment must take into consideration the client's age (for example, child, young adult, elderly person) and the implications for active treatment at each stage, as applicable, and must - (i) Identify the presenting problems and disabilities and where possible, their causes; (ii) Identify the client's specific developmental strengths; (iii) Identify the client's specific developmental and behavioral management needs; (iv) Identify the client's need for services without regard to	CMS has clarified that based on the ICF Emergency Preparedness plan, and in accordance with the requirement at 42 CFR § 483.440(c)(3)(v) that the IPP assess the client's health status in the context of a COVID-19 diagnosis, the ICF must revise the client's IPP to reflect specific procedures and steps that will be taken to quarantine the client while also taking every step reasonable to protect the rights, safety, and health of the infected client, as well as those of the staff and other clients. ICFs are encouraged to use assistive technology to minimize social isolation to the extent possible. ICF's are also encouraged to use telehealth, when possible, to minimize the risk of exposure to COVID-19, while still meeting the medical and emotional needs of the individual. The use of telehealth also expands a person's access to healthcare providers.

	the actual availability of the services needed; and (v) Include physical development and health, nutritional status, sensorimotor development, affective development, speech and language development and auditory functioning, cognitive development, social development, adaptive behaviors or independent living skills necessary for the client to be able to function in the community, and as applicable, vocational skills.	
42 CFR § 483.460 Condition of Participation: Health Care Services	42 CFR § 483.460 (regarding condition of participation: health care services) can be found in its entirety here: https://www.law.cornell.edu/cfr/text/42/483.460	The requirements under 42 CFR §§ 483.460(e)(1) and (f)(1)(2) and (3) that were requested by ODP were not waived by CMS. CMS has provided flexibilities for approval of health care based on the client's IPP as approved by the interdisciplinary team and the use of telehealth and telemedicine services. CMS is allowing and ICFs are encouraged to use telehealth and telemedicine when available and appropriate. CMS recognizes some offsite services may temporarily close and appointments may need to be rescheduled. Non-emergent, Non-COVID care should be offered to clients, as clinically appropriate, in localities or facilities that have the resources to provide such care.
42 CFR § 483.470(e)(1) Condition of participation: Physical environment; Standard: Heating and ventilation CMS Blanket Waiver	(e)(1) Each client bedroom in the facility must have - (i) At least one window to the outside; and	CMS has waived the outside window requirement to permit ICFs to utilize facility and non-facility space that is not normally used for patient care to be utilized for temporary patient care or quarantine.
42 CFR § 483.470(j)(1)(i) and 483.470(j)(5)(ii) Condition of participation: Physical environment;	(j)(1) General. Except as otherwise provided in this section - (i) The facility must meet the applicable provisions of either the Health Care Occupancies Chapters or the Residential Board and Care Occupancies Chapter and must proceed in accordance with the Life Safety Code (NFPA 101 and Tentative Interim Amendments TIA 12-1, TIA 12-2, TIA 12-3,	CMS is modifying these requirements to the extent necessary to permit ICFs to adjust scheduled inspection, testing, and maintenance (ITM) frequencies and activities for facility and medical equipment including those that are required by the Life Safety Code (LSC) and Health Care Facilities Code (HCFC). The following LSC and HCFC ITM are considered critical and are not

Standard: Fire protection CMS Blanket Waiver	and TIA 12-4.) (j)(5) Facilities that meet the Life Safety Code definition of a health care occupancy. (ii) A facility may install alcohol-based hand rub dispensers if the dispensers are installed in a manner that adequately protects against inappropriate access.	waived: • 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. CMS is waiving requirements in the Life Safety Code that would otherwise not permit temporary walls and barriers between patients. CMS is waiving the prescriptive requirements in the Life Safety Code for the placement of Alcohol-Based Hand-Rub (ABHR) dispensers for use by staff and others due to the need for the increased use of ABHR for infection control. However, ABHRs contain ethyl alcohol, which is considered a flammable liquid, and there are restrictions on the storage and location of the containers. This includes restricting access by certain patient/resident populations to prevent accidental ingestion. Due to the increased fire risk for bulk containers (over five gallons), those will still need to be stored in a protected hazardous materials area. CMS has clarified that facilities must continue to protect ABHR dispensers against inappropriate use as required by § 483.470(j)(5)(ii).
42 CFR § 483.470(i) Condition of participation: Physical environment; Standard: Evacuation drills	(i)(1) The facility must hold evacuation drills at least quarterly for each shift of personnel and under varied conditions to - (i) Ensure that all personnel on all shifts are trained to perform assigned tasks; (ii) Ensure that all personnel on all shifts are familiar with the use of the facility's fire protection features; and	Due to the inadvisability of quarterly fire drills that move and mass staff together, CMS will instead permit a documented orientation training program related to the current fire plan, which considers current facility conditions. The training will instruct employees, including existing, new or temporary employees, on their current duties, life safety procedures and the fire protection devices in their assigned area.

CMS Blanket Waiver	(iii) Evaluate the effectiveness of emergency and disaster plans and procedures. (i)(2) The facility must - (i) Actually evacuate clients during at least one drill each year on each shift; (ii) Make special provisions for the evacuation of clients with physical disabilities; (iii) File a report and evaluation on each evacuation drill; (iv) Investigate all problems with evacuation drills, including accidents, and take corrective action; and (v) During fire drills, clients may be evacuated to a safe area in facilities certified under the Health Care Occupancies Chapter of the Life Safety Code. (i)(3) Facilities must meet the requirements of paragraphs (i)(1) and (2) of this section for any live-in and relief staff they utilize.	