



State of California—Health and Human  
Services Agency  
**California Department of  
Public Health**



**GAVIN NEWSOM**  
Governor

December 23, 2020

AFL 20-90

**TO:** General Acute Care Hospitals

**SUBJECT:** Program Flexibility Requirement for General Acute Care Hospitals (GACH) Before Providing Acute Hospital Care at Home Services

**AUTHORITY:** Centers for Medicare and Medicaid Services (CMS) COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers (PDF), Division 2 of the California Health and Safety Code and Title 22 CCR Division 5, Chapter 1

**All Facilities Letter (AFL) Summary**

- This AFL provides direction to GACHs who may be interested in providing acute hospital care at home services.
- CMS is offering individual waivers that allow GACHs to provide acute care to patients in their homes to help address the urgent need to increase hospital capacity to care for patients.
- In addition to receiving waiver approval from CMS, a GACH seeking to provide acute hospital care at home services must also meet applicable GACH licensing requirements and obtain approval for appropriate program flexibilities from the California Department of Public Health (CDPH).

**Background**

On March 1, 2020, CMS began issuing blanket waivers that provide flexibility to hospitals and health care systems to develop capacity for handling patient surge during the Coronavirus disease 2019 (COVID-19) Public Health Emergency (PHE) through temporary expansion sites for patient treatment.

On November 25, 2020, CMS issued a press release stating that they are expanding the waiver program to allow GACHs to provide acute hospital care at home services. Acute hospital care at home services provide health care to acutely ill patients in their homes by using methods that include telehealth, remote monitoring, and regular in-person visits by nurses. Acute hospital care at home services may alleviate hospital staffing shortages and may have the added benefit of allowing patients to maintain contact with loved ones while they are ill.

GACHs are required to coordinate with CDPH to operate under the state's emergency preparedness or pandemic plan during this PHE to help meet surge needs in their community. The new individual waivers allow the home of a Medicare-enrolled beneficiary to be considered a hospital department where hospitals may provide inpatient and outpatient hospital services to help address the urgent need to increase hospital capacity. In addition to receiving an individual waiver for acute hospital care at home services from CMS, a GACH seeking to provide acute care services must continue to meet state licensure requirements for GACHs in Division 2 of the California Health and

Safety Code and Title 22 CCR Division 5, Chapter 1, to the extent not waived by CDPH's AFL 20-26.3 Suspension of Regulatory Enforcement of Hospital Requirements and receive program flexibility from CDPH for any requirement that will be met using an alternative method as indicated under the Program Flex heading. A hospital seeking to offer acute hospital care at home services may not begin providing this service until it has received approval from CDPH.

### **CMS Requirements**

CMS is waiving certain nurse staffing requirements found in sections 482.23(b) and (b)(1) of the Conditions Hospital of Participation which require nursing services to be provided on the premises 24 hours a day, 7 days a week and the immediate availability of a registered nurse for care of any patient. The waivers are individual waivers, not blanket waivers, so each hospital that wishes to participate in the program must request approval and meet CMS requirements. Factors that CMS will consider include the following:

- Ability to provide or contract for required hospital services
- Personnel visits (daily monitoring by MD and nursing staff either in person or remote)
- Emergency response time
- Admissions only from an emergency department or inpatient hospital.
- Use of defined patient selection criteria developed internally or externally
- Monthly reporting requirements
- Use of an accepted patient leveling process

Each of these factors is detailed in the CMS Waiver Application Portal.

Hospitals that have treated 25 or fewer acute home care patients or have never provided at-home acute services will have to submit a more detailed waiver request to CMS than hospitals that have provided home acute care services to 25 or more patients. Waivers will last until the end of the PHE.

### **Program Flexibility Request**

CDPH's Center for Health Care Quality, Licensing and Certification program, reviews program flexibility requests on a case-by-case basis. In addition to receiving waiver approval from CMS, a GACH seeking to provide acute hospital care at home services must also meet applicable GACH licensing requirements and obtain approval for appropriate program flexibilities. To apply for a program flexibility, a GACH must submit form CDPH 5000 (PDF) and supporting documentation to the Centralized Program Flex Unit at [centralizedprogramflex@cdph.ca.gov](mailto:centralizedprogramflex@cdph.ca.gov) and the district office that oversees the facility. The form must contain:

- Each regulation for which the facility requests flexibility.
- An explanation of the alternative concepts, methods, procedures, techniques, equipment, personnel qualifications, or pilot projects that the facility proposes to use.
- Supporting evidence demonstrating how the facility's alternative concepts, methods, procedures, techniques, equipment, personnel qualifications, bulk purchasing of pharmaceuticals, or pilot projects meet the intent of the regulation.
- A licensee, administrator, or authorized facility representative signature on all forms and/or requests.
- Documentation from CMS of their approval for the hospital to provide acute care services in the patient's home.

Additional information about the Program Flexibility process is included in AFL 18-19.

Factors that a GACH may want to consider when determining what program flexibilities it may be needed include:

- Secure storage of drugs in the home.
- Labeling of pharmaceuticals to enable appropriate identification and dosing of drugs in the home.
- Preparing the home environment, including appropriate space for equipment, supplies, drugs, egress and other fire safety considerations.

- Infection control, including but not limited to prevention of transmission of COVID-19 or other communicable disease to other people in the home.

If you have any questions or concerns regarding this AFL, please contact the Centralized Program Flex Unit via email at [centralizedprogramflex@cdph.ca.gov](mailto:centralizedprogramflex@cdph.ca.gov).

Sincerely,

**Original signed by Heidi W. Steinecker**

Heidi W. Steinecker

Deputy Director

### Resources

- CMS Acute Hospital Care at Home Individual Waiver Request Process
- Acute Hospital Care at Home FAQs
- CMS Coronavirus Waivers & Flexibilities

Center for Health Care Quality, MS 0512 . P.O. Box 997377 . Sacramento, CA  
95899-7377

(916) 324-6630 . (916) 324-4820 FAX  
Department Website ([cdph.ca.gov](http://cdph.ca.gov))



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