

**Resuming Long-Term Care (LTC) Standard Recertification Health Surveys;
and Emergency Preparedness and Life Safety Code Surveys for all Provider Types**

Frequently Asked Questions (FAQs)

The purpose of this Frequently Asked Questions (FAQs) is to clarify existing guidance and provide additional guidance to State Survey Agencies (SAs) when conducting LTC standard recertification health surveys; and when conducting emergency preparedness (EP) and life safety code (LSC) surveys for all provider types.

LTC surveyors are expected to complete the COVID-19 Surveyor Training for Long Term Care facilities related to Staff and Resident Testing available on QSEP, prior to conducting a COVID-19 Focused Infection Control (FIC) Survey.

General

Q1. When conducting LTC recertification health surveys, if surveyors discover that the facility has one or more cases of COVID-19, must they combine the COVID-19 Focused Infection Control (FIC) survey with the standard recertification survey?

A. No. The Infection Control Facility Task performed as part of the standard recertification health survey is a comprehensive look at facility infection prevention and control practices, which would include a review of those practices necessary to prevent and control the spread of COVID-19.

For surveys beginning after November 30, 2020, the probes of the FIC survey tool have been combined with the Infection Control Facility Task Pathway, and incorporated into the LTC Survey Process (LTCSP) survey software. This revised pathway should be used for all LTC recertification surveys, infection control complaints, and FIC stand-alone surveys; therefore a separate FIC survey would not be necessary. Additionally, when creating the LTC recertification health survey shell in ASPEN Central Office, surveyors should not use the FIC code.

Q2. How should LTC standard recertification health surveys, and EP surveys and LSC surveys be conducted when there are active COVID-19 cases in the building?

A. Per QSO 20-35-All, States may resume performing LTC standard recertification health surveys, and EP and LSC surveys (for all provider types) at the State's discretion as soon as they have the resources (e.g., staff and/or PPE) to do so. Upon arrival, if the facility is cohorting COVID-19 positive residents, ensure only one surveyor is assigned to and stays exclusively in that area of the building. If a surveyor is restricted to a specific area of the building, the surveyor should meet virtually with the team throughout the survey. The team will have to retrieve that surveyor's data through email or some other secure means. The Long Term Care Survey Process (LTCSP) Procedure Guide (PG) provides three different data sharing methods: using file method, using secured wireless method, using secured wired method. Additionally, all surveyors should use appropriate infection control precautions when entering resident and/or patient rooms. See [Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 \(COVID-19\) Pandemic](#). The surveyor's laptop computer is similar to bringing a note pad and pen into the resident's room. Residents, patients and facility staff should not touch the surveyor's laptop computer. The surveyor should not place the laptop computer on an unclean surface.

In situations where there is only one surveyor conducting the survey (e.g., complaint, LSC, or EP), to the extent possible, the surveyor should begin the survey activity in an area with negative residents and not return to that area once positive residents have been encountered.

Additionally, for surveyors conducting any type of survey, (e.g. LTC standard recertification, and complaint, EP, or LSC surveys for any provider type), survey agencies should supply surveyors with proper Personal Protective Equipment (PPE) and supplies including, but not limited to: N95 respirators, procedural/surgical masks, gloves, face shield/goggles/eye protection, hand sanitizer, and sanitizing wipes. Surveyors may use certain types of PPE and supplies provided by the facility, in an emergency. However, due to nationwide supply shortages, surveyors should not expect a facility to provide PPE and supplies.

Q3. Are certified providers and suppliers required to allow surveyors and Fire Marshals into their facilities?

A. Medicare and Medicaid certified providers and suppliers must grant access to Federal, State, and AO surveyors performing onsite inspections, including Fire Marshals performing LSC and emergency preparedness inspections. Per 42 CFR 489.53(a): “CMS may terminate the agreement with any provider if ... (18) The provider or supplier fails to grant immediate access upon a reasonable request to a SA or other authorized entity for the purpose of determining, in accordance with § 488.3, whether the provider or supplier meets the applicable requirements, conditions of participation, conditions for coverage, or conditions for certification.”

Similar to other law enforcement, regulatory, and public health oversight, the Centers for Medicare & Medicaid Services (CMS) must continue to fulfill its statutory, regulatory and mission-focused priorities to ensure the health and safety of patients and residents. These vital oversight activities have taken on even greater importance during the public health emergency. CMS takes seriously the need to provide oversight of care delivery while not jeopardizing the health and safety of the patients, residents, and staff who may engage with surveyors during an inspection.

Q4. What protocols are in place for surveyors?

A. It is important to note that surveyors are in an observation, not direct care role when they enter a facility to conduct surveys. They are trained to both monitor and practice proper infection control protocols while performing their surveys. The safety of all involved, including the surveyors, is paramount.

All surveyors should wear appropriate PPE and adhere to the practices for COVID-19 infection prevention (e.g., social distancing, hand hygiene, etc.) while onsite, and adhere to any health-related screening protocols before entering a facility, including temperature checks and noting any potential signs or symptoms of infection.

Q5. Can a facility refuse entry to a surveyor based on results of screening protocols?

A. Facilities generally may not refuse entry to surveyors arriving to conduct a survey (see 42 C.F.R. §489.53(a)(18), quoted above). However, surveyors should not enter facilities if they are experiencing signs or symptoms of infection. Facility concerns related to a surveyor presenting with signs and symptoms of COVID-19 should be conveyed to the SA and, if necessary, the appropriate CMS location.

As noted in the Q4 response above, all surveyors should adhere to any health-related screening protocols before entering a facility for any potential signs or symptoms of infection (such as temperature or

fsymptoms, including coughing, sore throat, or other symptoms included in the CDC guidance here: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>).

Q6. Are surveyors required to be tested?

A. While CMS strongly encourages States to provide COVID-19 testing for surveyors (and many do), CMS does not have authority to mandate this as a requirement for state employees. Facilities can offer to test surveyors for COVID-19 prior to entry, and surveyors may agree to be tested, but facilities cannot require testing (or proof of testing) as a condition for surveyors entering the facility. Additionally, if a facility offers to test a surveyor, any associated fees should be disclosed prior to any test, and again, surveyors are not obligated to be tested.

Q7. Should the team try to minimize the number of surveyors who interact with known COVID-19 positive residents?

A. Yes, we recommend, where practical, one surveyor be assigned to COVID-19 positive residents only. Additionally, we recommend that a different surveyor be assigned to the COVID-19 suspected residents, or those residents under observation. CMS recommends that the surveyor that is assigned to the COVID-19 unit should stay on that unit for the entire survey while completing the investigation and tasks specific to that unit.

If a surveyor is restricted to a specific area of the building (e.g., because of cohorting), the surveyor should not physically meet with any other survey team member. The surveyor should meet virtually (on his/her own) with the team throughout the survey. In such case, the team will have to retrieve that surveyor's data securely (e.g., through email). The purpose of this is to ensure that surveyors who have been surveying on a COVID-19 positive or suspected positive unit do not also survey or make contact with persons on a non-COVID-19 unit.

Q8. Does the Personal Protective Equipment (PPE) requirement for surveyors change based on the COVID-19 status of the facility?

A. Yes, surveyors must comply with any mitigation strategies the facility has in place to prevent COVID-19 transmission. Surveyors should not move between COVID-19 positive, suspected positive, and non-COVID-19 areas within the facility. At a minimum, surveyors should wear face masks as appropriate, while in a facility during the Public Health Emergency (PHE). PPE may also be required, such as gowns, N95 respirators, and/or eye protection if confirmed COVID-19 residents are within the facility, as well as the type of transmission-based precaution a resident may be on (e.g., contact precautions), the type of resident procedure performed, and the potential for blood or body fluid exposures. Since the demand for PPE may vary based on the COVID-19 status of the building, surveyors should prepare adequate PPE for the entire survey.

Q9. For facilities with a COVID-19 unit, should that unit be included in the sample selection process?

A. Yes, the survey team should include COVID-19 suspected or confirmed residents in sample selection. Per QSO-20-38, when conducting FIC surveys, the survey team should select at least one sample resident who was confirmed COVID-19 positive or had signs or symptoms consistent with COVID-19, for purposes of determining compliance with infection control, including transmission-based precautions, and/or F886. The team would assign one surveyor to the COVID-19 unit who would be responsible to review the residents on that unit.

Entrance Conference

Q10. During LTC standard recertification health surveys, will survey teams be permitted to complete entrance activities by phone?

A. No. The LTC standard recertification health survey is unannounced. The entrance conference should be done safely onsite and in the presence of a facility representative using COVID-19 infection prevention practices. After identifying yourself to facility personnel and prior to conducting the entrance conference, the team coordinator/individual surveyor must ask the administrator if there are any confirmed/suspected cases of COVID-19 in the facility. At the entrance conference, the team coordinator and the facility representative should follow CDC guidance to maintain social distancing.

Initial Pool

Q11. During LTC standard recertification health surveys, if the initial pool of residents includes a COVID-19 positive resident, could that resident be replaced with someone who is negative?

A. No, a COVID -19 positive resident in the initial pool should not be replaced with a resident who is COVID-19 negative. The initial pool is intended to identify residents with high-risk care concerns to further investigate and determine the facility's compliance with the requirements of participation. With changes that have been put in place for the LTCSP starting November 30, 2020, the team is required to include at least one resident, if available, who is suspected or confirmed positive for COVID-19 in the initial pool, (Step 13 in the LTCSP procedure guide).

Investigations

Q12. During standard recertification surveys, will survey teams be permitted to complete phone interviews and record reviews offsite to minimize time onsite?

A. For the Initial Pool, surveyors should attempt to safely interview the resident in person, even if the resident is COVID-19 positive or suspected positive, using infection prevention practices (PPE, social distancing, etc.). As always, if an interview needs to be conducted with someone that is not present in the facility (e.g., resident representative), then a telephone interview should be attempted.

Surveyors should attempt to safely complete all of the initial pool activities onsite which includes resident observations, resident/family interviews (unless the family is not onsite), and record reviews during the first 8-10 hours of the survey.

CMS expects surveyors to clarify any discrepancies and corroborate any interview information onsite prior to sample finalization.

It is important to collect first-hand information and collect evidence through observations and interviews. During investigation, surveyors may still need to remain onsite to conduct additional observations or resident interviews; however, there may be opportunities to conduct additional phone interviews or record review offsite to determine whether the facility is in compliance with the requirement or not. There may be some opportunities to conduct a few additional survey activities offsite (e.g., team meetings, review of policy and procedures, exit conference).

Facility Tasks

Q13. Are there any facility tasks that need to be altered if there are COVID-19 cases in the building?

A. If the facility is experiencing an outbreak of COVID-19 at the time the survey team enters to conduct a recertification survey, the survey team should make adjustments in order to prevent further spread of COVID-19. Examples of facility tasks that may be modified include:

Resident Council Interview:

Group interviews must be done while social distancing. If this is not possible, the surveyor could ask to review the resident council minutes for any concerns voiced by the council and follow up on items identified with the Resident Council President or one of the active council members.

Additional guidance for conducting an in-person group interview includes:

- Limit the number of residents who are invited to the meeting to facilitate easier communication with facemasks on.
- Ensure the meeting is held in a room that allows for everyone to socially distance.
- Give a copy of the questions to the participating residents in advance of the interview.
- Speak loudly, clearly, and slowly so you can be heard through your facemask.

For residents who participate in the Resident Council interview and are not on transmission-based precautions (TBP), it is important for everyone including the assigned surveyor to wear a face covering/mask as appropriate, maintain social distancing and perform hand hygiene at all times.

Dining Task:

If the facility is allowing residents to gather in a dining area while maintaining social distancing, the surveyors should observe the first meal after entrance using the Dining Observation facility task pathway in the software. The team should cover ALL communal dining locations and room trays. If there are more dining areas than surveyors, prioritize the dining areas with the most dependent residents. The surveyor assigned to the COVID-19 unit would observe dining for the COVID-19 unit.

Per QSO-20-39, residents who are no longer on transmission-based precautions for either confirmed COVID-19, suspected COVID-19, or those on quarantine/observation for unknown COVID-19 status, may eat in the same dining room or area, while practicing social distancing (limited number of people at tables and at least 6 feet between each person).

However, if dining rooms are not being used, the survey team should investigate further and determine whether the requirements related to food and nutrition services are being met, and assess if assistance is being provided for residents who require assistance with dining. In addition, at a minimum, the survey team should observe the meal for their initial pool residents who have weight loss, food, or hydration concerns, wherever their meal is served.

Exit Conference

Q14. During standard recertification surveys, will survey teams be permitted to complete exit activities by phone?

A. The exit conference may be done by phone or through a virtual meeting if all invited parties agree, including the facility, ombudsman, and an officer of the organized resident group in order to limit the time the team spends in the facility.

During the LSC Exit Conference, discuss with the Administrator any significant deviation from standard procedures that the LSC team took due to COVID-19. Reaffirm that these deviations are in response to

the PHE and not indicative of permanent changes to LSC requirements or the LSC survey process. In most cases, the LSC team may have a separate exit conference with the administrator, unless conducted with the health survey team. They may also be done by phone or virtual meeting.

Waivers

Q15. To what extent are the COVID-19 Emergency Blanket Waivers modified due to the expansion of the survey activities authorized via CMS Memo QSO-20-35-ALL?

A. Specified COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers are in effect with a retroactive effective date of March 1, 2020, through the end of the emergency declaration. Please note, however, that some waivers have been modified or rescinded. The survey team should review the current waivers prior to determining compliance of those requirements.

Some requirements, including certain Physical Environment (PE) and Life Safety Code (LSC) provisions, have been temporarily waived or amended to give facilities maximum flexibility during the PHE. CMS, State Agencies (SA), and AO surveyors should review and confirm with the facility the waivers prior to determining compliance of those requirements. Refer to all of the waivers at the following link:

<https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>

Resuming Physical Environment (PE) and Life Safety Code (LSC) Surveys During/After the COVID-19 Public Health Emergency

Q16. What adjustments should Life Safety Code surveyors make during the survey process in response to COVID-19?

A. Due to the COVID-19 PHE, changes in facility operations may require surveyors to adjust standard PE and LSC survey procedures. Possible adjustments to PE and LSC survey procedures are listed below. These adjustments are intended only for the PE and LSC portion of a survey and not intended to alter or modify the health portion of a survey.

- Facility Tour
 - In certain circumstances, the PE and LSC survey team may choose not to enter rooms/wings which have been identified by the facility as containing confirmed/suspected COVID-19 cases. For instance, in nursing facilities, if the number of bedrooms inspected in the rest of the facility meets the representative sample of bedrooms listed in the State Operations Manual (SOM), Appendix I, Table 1, no special notations are required. If the number of bedrooms checked does not meet the representative sample of bedrooms listed in Table 1, the LSC team must note the reason for the reduced number of bedrooms checked and the number of bedrooms actually checked versus the total number of bedrooms (or the approximate percentage of bedrooms checked) in the K000 tag of the form CMS-2567.

SAMPLE SIZE OF RESIDENT/PATIENT ROOMS

The table below gives the sample size (number of patient/resident rooms to be checked) needed.

Number of Bedrooms in the Facility	Bedrooms to be Checked
20	19
40	36
60	52
80	66
100	80
200	132
300	169
400	196
500	217
600	234
800	260
1000	278
2000	322

SOM, Appendix I, Table 1

- When inspecting smoke/fire barriers, the LSC team does not need to inspect the entire length of the barrier from outside wall to outside wall if the inspection would involve entering occupied resident rooms. As much of the barrier as possible should be inspected from the corridor, common areas, and storage/service rooms.
- Records Review
 - During the COVID-19 PHE, the following LSC inspection, testing and maintenance (ITM) items listed below were specifically NOT included as part of the 1135 blanket waivers (and therefore are not waived). The facility should have documentation available for review to demonstrate compliance.
 - 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 their ability to be used instantly in case of (emergency
 - Documented orientation training program related to the current fire plan in lieu of conducting fire drills
 - Other ITM timeframes and activities for facility, equipment, and LSC may have been adjusted at the discretion of the facility during the PHE in order to reduce disruption of patient care and potential exposure/transmission of COVID-19 (e.g., limit the number of outside vendor personnel entering the facility for annual fire alarm inspection, 5-year sprinkler pipe inspection, biennial smoke detector sensitivity test, etc.).
- Deficiency Determination

- A facility should NOT be cited for missing an ITM timeframe or adjusted ITM activities during the PHE as specified in the 1135 blanket waivers, with the exception of the non-waived items listed above.
- A facility should NOT be cited for ABHR, fire drills, or walls and barriers deficiencies during the PHE that meet the 1135 blanket waiver conditions.
- Utilize the K-tag guide to assist with deficiency determination and identifying LSC requirements that are associated with 1135 waivers. K-tag waiver guide may be accessed within the Surveyor Resource folder located at the following website:
<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Nursing-Homes>
- All other PE and LSC deficiencies should be cited in accordance with regular survey procedures.

CMS recognizes that the approach to performing PE and LSC surveys during the PHE must initially be determined on a case-by case basis due to the various blanket waivers and flexibilities that were afforded to facilities during the PHE. Surveyors will need to use professional judgment, in consultation with SA and AO management and the CMS location the state is connected to, on a facility-by-facility basis, on how to survey and determine deficiencies.

Q17. Should a PE or LSC surveyor cite an Inspection, Testing, and Maintenance (ITM) deficiency that occurred prior to the PHE?

A. Yes. Should an ITM item be found as being deficient before the March 1, 2020 effective date of the 1135 blanket waivers (e.g. missed quarterly sprinkler inspection due by December 31, 2019) and the facility can verify that it was unable to correct the deficiency due to the PHE, cite the deficiency at the standard level and follow Plan of Correction (POC) guidance.

Q18. How should facilities deal with citations for ITM deficiency if they can't be corrected due to vendor access restrictions under the ongoing PHE?

A. In order to account for the unknown duration of the COVID-19 PHE and the time it will take facilities and vendors to return to full operations, cited deficiencies may require additional time beyond the standard enforcement timelines to come into substantial compliance (i.e. 90 days for denial of payment for new admissions and 180 days for termination in LTC facilities, and 60 days in non-LTC facilities). Facilities should request temporary LSC waivers, as applicable, as part of their POC if they can substantiate delays due to the PHE. The POC must still include details for corrective actions the facility will take in order to bring the facility back into substantial compliance once access restrictions are lifted. The temporary LSC waiver request should also include any mitigation necessary to reduce the risk to patient health and safety as a result of delayed correction of any deficient practice.

The SA and AO should review all temporary waiver requests and forward those recommended to the appropriate CMS Location for final approval or denial.

Q19. Have Emergency Preparedness requirements been adjusted under the PHE?

A. A limited number of blanket waivers were issued by CMS in relation to Emergency Preparedness for hospitals, Critical Access Hospitals (CAH), and End-Stage Renal Dialysis (ESRD) facilities. For all other provider types (including LTC facilities), Emergency Preparedness requirements remain unchanged. Refer to emergency preparedness waivers at the following link: <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>