Emergency Evacuation to a Licensed Nursing Home

Recent emergency situations raised questions pertaining to whether a nursing home is permitted to respond to a community emergency and provide aid (e.g., food and shelter) to non-nursing home residents.

The Ohio Department of Health (ODH) has indicated that the overriding health and safety of the individuals to be sheltered is the most important factor in any emergency situation. With that said, licensed nursing homes need to be aware of the regulatory impacts of accepting individuals in an emergency. Based on responses received from ODH, OHCA recommends that licensed facilities do not accept more individuals than the facility’s licensed capacity to avoid potential citations, and you should not take anyone unless you plan to admit them as a patient under all the applicable rules. ODH indicates it will not disregard the rules during an emergency.

For certified facilities, payment for the individual is subject to the 1135 Waiver (which can temporarily waive or modify certain Medicare, Medicaid, and Children’s Health Insurance Program) and must meet all applicable admitting rules and regulations. Because of the requirements under the waiver, it is unlikely that facilities will be reimbursed in most emergency situations. In addition, if the SNF has fewer certified beds than licensed beds, the facility would not be paid by Medicaid or Medicare for people they admit over the certified capacity but within the licensed capacity.

The following responses to specific questions were obtained from ODH:

1) Can a nursing home provide temporary room and board to an individual from the community that does not meet level of care and who is not admitted to the home?

Answer: The provision of providing temporary food and shelter in an emergency must be reviewed on a case-by-case basis.

However, Ohio Revised Code section 3721.07(H) provides in part that a home may not house transient guests. If an individual is provided accommodations for more than twenty-four hours, the individual meets the definition of a resident and therefore, all licensure rules would apply. If the nursing home is certified to participate in the Medicare and Medicaid programs, all applicable federal regulations would apply.

Does it matter if a state of emergency has been declared in the community?

Answer: No

2) If the home admits an individual who does not need nursing care under these circumstances, is the person considered to be a resident?

Answer: Yes.

3) If the home is permitted to provide room and board under these circumstances for a period of time without admitting the person, must the person be placed in a licensed bed, or can the home temporarily exceed its licensed capacity? In other words, if the home had a section of the home that was not being used, could it set up the temporary “shelter” in that location if doing so would make it exceed its licensed capacity?

Answer: See response to #1. Additionally, in accordance with OAC rule 3701-17-05 (C)(3), no operator, administrator, employee or other person shall set up beds for resident use in a nursing home which exceeds the authorized maximum licensed capacity.

4) If the person is permitted to stay without being admitted as a resident, do any of the licensing or certification rules apply to these individuals or the home (e.g., transfer and discharge, abuse reporting regulations, need to ensure medications are obtained, etc.)?

Answer: See response to #1.

5) If the person is permitted to stay without being admitted, must ODH be notified? Is there a limit to how long the person can stay before she/he must be admitted or required to leave? Would the home need to do a Mantoux if the person stays for more than 48 hours?

Answer: See response to #1. Facilities should contact the Division of Quality Assurance Eastern or Western Regional Manager as applicable in the event of an emergency situation involving the provision of temporary food and shelter.