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## **OSHA Issues Memoranda on Respiratory Protection**

The Occupational Safety and Health Administration (OSHA) has issued two separate enforcement memoranda related to the use of respirators by healthcare and non-healthcare employers. This includes all long term care providers: skilled nursing, assisted living, and ID/DD providers. The memoranda address issues facing employers regarding the respirator shortage, giving employers limited relief from OSHA's Respiratory Protection standard as a result from COVID-19.

The [first memoranda](#) gives employers relief to extend the use of National Institute for Occupational Safety and Health (NIOSH) – approved respirators and to permit reuse of them. The [second memoranda](#) allows employers in certain circumstances to use respirators approved by another country, where NIOSH-approved respirators are not available. Employers must exhaust all NIOSH-certified respirators prior to use non-NIOSH-certified respirators. You can read more details including the guidance on [Littler's website](#).

### **Be Prepared - OSHA Requirements for PPE**

AHCA/NCAL has learned that some members and other health care entities are receiving letters from OSHA regarding lack of PPE. AHCA/NCAL has consulted with our outside consultants who recommend preparing a plan with the following information:

1. If you are running low on PPE, follow the [CDC guidance](#) and guidance from your local health department.
2. Have a plan in place that deals with [potential exposure](#) to COVID-19 for employees, for example, what happens if a staff member has respiratory or other symptoms indicative of COVID-19 or tests positive with COVID-19.
3. Communicate this plan to all staff often and have it available for staff to review.

## Recording workplace exposures to COVID-19 - Occupational Safety and Health Administration (OSHA)

OSHA recordkeeping requirements at [29 CFR Part 1904](#) mandate covered employers record certain work-related injuries and illnesses on their OSHA 300 log. While these requirements exempt recording of the common cold or flu, COVID-19 is a recordable illness when a worker is infected on the job if the following are met:

1. Case is confirmed COVID-19
2. The case is work-related as defined by 29 CFR 1904.5 and
3. The case involves one or more of the general recording criteria set forth in 29 CFR 1904.7

[Visit OSHA's Injury and Illness Recordkeeping and Reporting Requirements page for more information.](#)

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## Payroll Based Journal Update

CMS is waiving 42 CFR 483.70(q) to provide relief to long-term care facilities on the requirements for submitting staffing data through the Payroll-Based Journal system. This means that staffing data for the first quarter of 2020 (1/1/20 – 3/31/20) will not need to be submitted for the May 15, 2020 deadline, nor will this data need to be submitted later.

At present, there is no additional information as to how long this waiver will remain in place and **providers should continue to collect staffing data**, as CMS has only waived submission of data but not the collection of the data.

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## CMS Calls Later Today and Thursday

### COVID-19 with Nursing Homes

CMS leadership will provide updates on the agency's latest guidance and will be joined by leaders in the field interested in sharing best practices with their peers. The call will be recorded. Conference lines are limited, so it is highly encouraged you to join via audio webcast, either on your computer or smartphone web browser.

**Wednesday, April 8th**  
**4:30 – 5:00 PM EDT**  
Attendee Dial-In: 833-614-0820  
Conference ID: 6798274  
[Join via Audio Webcast](#)

## CMS “Office Hours” on COVID-19

Opportunities for hospitals, health systems, and providers to ask questions of agency officials regarding CMS’s temporary actions that empower local hospitals and healthcare systems to:

- Increase Hospital Capacity – CMS Hospitals Without Walls;
- Rapidly Expand the Healthcare Workforce;
- Put Patients Over Paperwork; and
- Further Promote Telehealth in Medicare

Submit questions in advance to [partnership@cms.hhs.gov](mailto:partnership@cms.hhs.gov), including “Office Hours” in the subject line. There will also be live Q&A. Conference lines are limited, so it is highly encouraged you to join via audio webcast, either on your computer or smartphone web browser.

**Thursday, April 9th**

**5:00 – 6:00 PM EDT**

Attendee Dial In: 833-614-0820

Event Plus Passcode: 1881716

[Join via Audio Webcast](#)

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## FAQs on the Payroll Protection Program

The Department of the Treasury released a new [FAQ](#) this week that clarifies certain areas of the Paycheck Protection Program created by the Coronavirus Aid, Relief and Economic Security Act (CARES Act). Among other topics, the FAQ specifies that the \$100,000 cap on payroll costs used to calculate the PPP loan size applies to **salary costs** only. This means that a wider range of employees can be factored into the loan size calculation than originally believed, since healthcare benefits, retirement benefits and other compensation do not need to be factored into the cap.

[The full FAQ can be found here.](#)

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## HUD COVID-19 Relief

AHCA/NCAL has received confirmation from the U.S. Department of Housing and Urban Development (HUD) that in response to recommendations from the industry, HUD review and approval of the below types of transactions for Section 232 insured facilities impacted by COVID-19 is not required. If the Lender has been notified that the project is with the Risk Mitigation Branch, then HUD approval is required. This is effective through July 31, 2020 and applies to the following:

1. Suspend monthly deposits to the replacement reserve through July 31, 2020, at which time the deposits will resume unless HUD grants a further

- extension. At the conclusion of the suspension period, the sum of the suspended payments shall be paid into the Reserves for Replacement in equal monthly increments over the next 12 consecutive months.
2. Use operating deficit funds to meet debt service payments, subject to repayment provisions, if any, contained in the subject escrow agreement.
  3. Use debt service reserves to meet debt service payments; subject to repayment provisions, if any, contained in the subject escrow agreement.
  4. Use replacement reserve accounts to meet debt service payment requirements so long as the account balance does not fall below \$1,000 per unit.

To exercise this authority, borrowers must demonstrate, to the lender's satisfaction, that their request results from the impacts of COVID-19. While HUD approval will not be required, the lender is expected to report any utilization of the above to their assigned account executive and discuss any new risks at the facility that have may have emerged.

On a case-by-case basis, HUD will consider requests from borrowers for other non-conventional uses of escrow funds. Balances in these accounts are typically not significantly larger than the projected amounts needed for those accounts' intended purposes. Moreover, the balances are not likely substantial enough to significantly offset COVID-19 operating revenue and expense impacts.

[For further detail see HUD's frequently updated COVID-19 FAQ.](#)

Please email [COVID19@ahca.org](mailto:COVID19@ahca.org) for additional questions, or visit [ahcancal.org/coronavirus](http://ahcancal.org/coronavirus) for more information.

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