

LEGIONELLA FREQUENTLY ASKED QUESTION:

APPLICABLE PROVIDERS: HOSPITAL, CRITICAL ACCESS HOSPITALS & NURSING HOMES

Question 1: I have a question related to water sampling and positive tests for Legionella. Is there somewhere in writing that states that having a positive test is reportable to you?

With the latest facility to be positive reported it to you, we were wondering if they did this out of courtesy or because it is required.

I think this would be good information to know on our side of things in case we get questions about who to report positive water specimens too, or if it's even necessary.

Answer 1:

Facilities are required to be in compliance with the CMS regulations at all times. There may not be a specific regulation identifying reporting a variety of issues that may present themselves at the various facility types, however, it is CMS' expectations that the State Agencies (SA) are aware of any issues that may present themselves that could result in noncompliance or that may result in the activation of the facility's emergency preparedness plan. This often presents itself in system issues that could have the potential for facility wide concerns. CMS will inquire with the State Agency about concerns that have the potential to affect the safety and/or quality of care within a Federally Certified Facility.

As an example, as seasonal fires approach facilities, the SA is actively involved in tracking them and communicating with the providers in the area to determine their plans and how they will process should an evacuation be required. This would also hold true for Legionella or any infectious outbreak. It allows the SA to communicate with the provider and determine their next steps and any concerns we may identify with other regulatory areas.

The specific guidance that the Centers for Medicaid and Medicare Services (CMS) has given can be found in the QSO Memo [17-30-Hospitals/CAHs/NHs](#), revised 7-6-2018, and can be accessed through the hyperlink. Some key points from the guidance are listed at the end of this email. One of the Certification Bureau (Bureau) surveyors also wrote an article for our Bureau Newsletter which was distributed for the Spring 2018 version addressing what CMS and Surveyor expectations were when a facility is surveyed; a copy can be found at

<https://dphhs.mt.gov/Portals/85/qad/documents/CertificationBureau/CBNewsletterSpring2018.pdf>.

Finally, CMS offers providers the same training that our surveyors receive. This training can be found on the Integrated Surveyor Training Website and does not need a password for the providers. The title of the course is, CMS Legionella and Other Waterborne Pathogens Webinar – Archived. Here is the direct website: <https://surveyortraining.cms.hhs.gov/pubs/ProviderTraining.aspx>.

“CMS expects Medicare and Medicare/Medicaid certified healthcare facilities to have water management policies and procedures to reduce the risk of growth and spread of *Legionella* and other opportunistic pathogens in building water systems.

*Facilities must have water management plans and documentation that, at a minimum, ensure each facility:*

- Conducts a facility risk assessment to identify where *Legionella* and other opportunistic waterborne pathogens (e.g. *Pseudomonas*, *Acinetobacter*, *Burkholderia*, *Stenotrophomonas*, nontuberculous mycobacteria, and fungi) could grow and spread in the facility water system.

- Develops and implements a water management program that considers the ASHRAE industry standard and the CDC toolkit.
- Specifies testing protocols and acceptable ranges for control measures and document the results of testing and corrective actions taken when control limits are not maintained.
- *Maintains compliance with other applicable Federal, State and local requirements.*

*Note: CMS does not require water cultures for Legionella or other opportunistic water borne pathogens. Testing protocols are at the discretion of the provider.*

Healthcare facilities are expected to comply with CMS requirements and conditions of participation to protect the health and safety of its patients. Those facilities unable to demonstrate measures to minimize the risk of LD are at risk of citation for non-compliance.”

The short answer to your questions is that CMS, and by extension, the Bureau cannot give that type of direction. It is up to the facility to develop policies and procedures based on their facility risk assessment, specify their own testing protocols, and identify how they will correct any results that fall outside of acceptable ranges. When the facility notifies the Bureau about issues such as Legionella, we can often handle questions or possible complaints from the public, residents, or staff when we know the facility is aware and acting to correct the issue. If a complaint were filed, the Bureau would then have to follow through with a facility survey.