

COVID-19 FAQ

11. Let's say we face staffing shortages due to quarantined employees and must perform transports with fewer licensed personnel. For example, let's say we have a non-licensed first responder as the driver and our state typically law requires 2 licensed personnel on every ambulance. Can we still bill Medicare in that situation?

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Answer: It depends. If at the time the transport occurs, the state requires 2 licensed personnel on every ambulance, then you would NOT be able to bill Medicare. Failing to meet current state law requirements precludes billing Medicare since the staffing requirements in the Medicare regulations, 42 CFR 410.41, are not met. Medicare has not relaxed the requirement that state law be met. However, you should check to see if your state or appropriate governing body that sets ambulance staffing requirements has issued a waiver concerning those staffing mandates. If your state or appropriate governing body has temporarily waived regulatory staffing requirements, for example to allow for only one licensed person be involved in the transport, then state law requirements would be met under the temporary waiver, and Medicare billing would be permitted. This would only apply while the waiver was in effect.

By means of example, on April 1, Pennsylvania Department of Health released EMS Information Bulletin 2020-11 which issued "Level 1 Staffing Exceptions" which remain in place while the "proclamation of disaster emergency remains in effect." The Bulletin requires the agency that chooses to implement such exceptions must notify the Regional Council within 24-hours if such implementation. The details of these exceptions:

Level I Exceptions:

- The requirement found at 35 Pa.C.S. § 8122, for an Emergency Medical Services Vehicle Operator to be credentialed in order to operate an EMS vehicle of any type, including QRS is hereby suspended
- The minimum staffing complement for a BLS ambulance has been adjusted to one Emergency Medical Technician (EMT), and a driver. The EMT must tend to the patient. This suspends the requirement found at 35 Pa.C.S. § 8133.
- The minimum staffing complement for an iALS ambulance has been adjusted to one Advanced Emergency Medical Technician (AEMT), and a driver. The AEMT must tend to the patient. This suspends the requirement found at 28 Pa Code §1027.34 (b).
- The minimum staffing complement for an ALS ambulance has been adjusted to one Paramedic, and an Emergency Medical Responder (EMR). This suspends the requirement found at 35 Pa.C.S. § 8130.