

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 law typically requires 2 licensed personnel on every ambulance. Can we still bill Medicare in that situation?

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Answer: It depends. Medicare regulations (42 CFR 410.41) define minimum national staffing requirements. However, those regulations also require that state and local requirements be met. The Medicare minimum staffing requirement for a BLS ambulance is at least one EMT-B, and for an ALS ambulance, at least one healthcare provider (e.g., Paramedic or EMT-Intermediate or EMT-Advanced) certified to perform ALS services. But, if state and local staffing requirements specify that two licensed personnel are required in your state, then two would be required in order to meet Medicare coverage criteria. Medicare has not (yet) relaxed that regulatory staffing requirement.

Therefore, you should first check to see if your state (or appropriate governing body that sets ambulance staffing requirements) has issued a waiver concerning staffing requirements. If there is a temporary waiver of state staffing requirements (e.g., only requiring one licensed healthcare provider instead of two), as long as the Medicare minimum staffing requirements are met, then Medicare billing **could** be permitted. Thus, in the question posed, an EMT plus a non-licensed first responder/driver might meet the relaxed state staffing requirements, and still meets the Medicare staffing requirements for a BLS ambulance (which only requires one EMT-B).

This is exactly what occurred in Pennsylvania, where the Department of Health released EMS Information Bulletin 2020-11: "Level 1 Staffing Exceptions." These staffing exceptions allow for an EMT and a driver for BLS units, and a Paramedic and an Emergency Medical Responder for ALS units. These relaxed state law requirements still satisfy the minimum Medicare requirements and therefore billing Medicare would be appropriate, assuming all other coverage criteria are met.

By contrast, let's suppose that the state Department of Health did **not** take steps to relax the staffing requirements, and the ambulance service instead chose to staff the vehicle with personnel that did not meet the state staffing requirements (e.g., only *one* certified person). In that case, Medicare coverage criteria would **not** be met, so billing Medicare would be improper. Although the Medicare minimum staffing requirements may be met, the state law requirements are not. Medicare requires that you meet **both** state and Medicare staffing requirements.

We are not (yet) aware of any official word from Medicare concerning any waived or relaxed regulations regarding Medicare minimum staffing requirements. For the time being, follow state (including temporary modification or adjustments to staffing requirements) and Medicare standards.