



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
PO Box 45600, Olympia, Washington 98504-5600

November 30, 2023

AL TSA: NH #2023-042

CATEGORICAL WAIVER- HEALTH CARE MICROGRID SYSTEMS (HCMSs)

Dear Nursing Facility/Home Administrator:

CMS regulations require compliance with the 2012 edition of NFPA 99 for various health care facilities. These regulations mandate the provision of normal and emergency power sources to certain patient care rooms, equipment, and systems through an essential electric system (EES). The 2012 edition of NFPA 99 specifically requires the use of a generator or battery system as the emergency power source.

Categorical Waiver: The 2021 edition of NFPA 99 now permits health care facilities to utilize alternate sources of power other than a generator or battery system, including a Health Care Microgrid System (HCMS). HCMSs are small-scale electrical grids that can be powered by clean energy technologies such as fuel cell, solar panels, wind turbines, and energy storage systems. The systems provide reliability, efficiency, and reduced environmental impact compared to traditional generators.

CMS is issuing a categorical waiver that allows new and existing health care facilities subject to CMS requirements to utilize alternate power sources, including HCMSs, in accordance with the 2021 edition of NFPA 99, 2023 edition of NFPA 70, and associated references. However, long-term care (LTC) facilities providing life support systems are exempted from this waiver.

The use of HCMSs without the concurrent use of a generator would be considered an unreasonable hardship upon providers and suppliers. HCMS offer enhanced reliability, efficiency, and sustainability while providing additional redundancy and resiliency. The 2021 edition of NFPA 99 and 2023 edition of NFPA 70 establish requirements for the installation, inspection, testing, maintenance, and safe practices of HCMSs, ensuring the protection of patients and residents.

Categorical Waiver Process: Facilities choosing to utilize this categorical waiver must formally document their decision and provide verification of compliance with the applicable NFPA codes and standards. The documented decision must be provided to the survey team at the entrance conference. Failure to notify surveyors before citation issuance is not acceptable.

If a facility elects to use the categorical waiver and complies with the requirements, it will not be cited for non-compliance with the 2012 edition of NFPA 99. The survey team will describe the waiver use and mark the facility as meeting the standard base upon recommended waivers. Non-compliance with the 2021 edition of NFPA will result in citations, and the facility must submit an acceptable plan of correction to regain compliance.

Exception: LTC facilities providing life support systems are not permitted to use sources of emergency power other than a generator. This requirement is specified in regulation 42 CFR §483.90(c)(2), which does not allow for waiver allowance.

ALTSA Provider Letter: **CATEGORICAL WAIVER- HEALTH CARE MICROGRID SYSTEMS (HCMSs)**

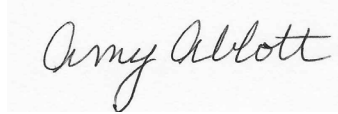
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This memo describes changes to the original guidance and are identified in the following link with changes outlined in red: [QSO-23-11-LSC](#).

If you have any questions, please contact Charles Demler, Policy Program Manager, at charles.demler@dshs.wa.gov.

Sincerely,

A handwritten signature in black ink that reads "Amy Abbott". The signature is written in a cursive style and is centered within a light gray rectangular box.

Amy Abbott, Director
Residential Care Services

DSHS: *"Transforming Lives"*