

CORONAVIRUS DISEASE 2019 (COVID-19)

Update on the 1135 Waiver for Leadership



Audience: Ministry Leadership

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On March 13, 2020 the President declared COVID-19 to be a national emergency. As a result, CMS has been authorized to take proactive steps through the 1135 Emergency Waiver process. The goal of the 1135 Waiver is to ensure that healthcare providers who deliver services in good faith can be reimbursed for them and not be subjected to sanctions for noncompliance when the normal course of action cannot be followed. A blanket waiver for certain accommodations has been issued to in support of healthcare providers to combat and contain the spread of this virus.

Note: The planned course of action should consider the use this waiver ONLY if patient safety will not be compromised. Changes anticipated to occur as the result of this blanket waiver should be escalated through Incident Command for coordination. Caution should be exercised in course correction. Generally, a waiver is anticipated to cease when the emergency no longer exists or as declared by the President.

Briefly, here are the modifications which fall under the blanket waiver in response to COVID-19:

Skilled Nursing Facilities:

CMS is waiving the requirement at Section 1812(f) of the Social Security Act for a 3-day prior hospitalization for coverage of a skilled nursing facility (SNF) stay provides temporary emergency coverage of (SNF services without a qualifying hospital stay, **for those people who need to be transferred as a result of the effect of a disaster or emergency**. In addition, for certain beneficiaries who recently exhausted their SNF benefits, it authorizes renewed SNF coverage without first having to start a new benefit period.

Our qualifying criteria to enact this waiver:

- Capacity must be at maximum for your facility
- Coordination and cooperation with the Skilled Facility must be in place to bill the Medicare benefit properly.

Critical Access Hospitals:

CMS is waiving the requirements that Critical Access Hospitals limit the number of beds to 25, and that the length of stay be limited to 96 hours.

Housing Acute Care Patients In Excluded Distinct Part Units:

CMS is waiving requirements to allow acute care hospitals to house acute care inpatients in generally-excluded distinct parts of the organization, where the distinct part unit's beds are appropriate for the acute care inpatient. (eg. ICU beds temporarily flowing over into CCU).

CMS is also waiving the boundaries of distinct hospital settings. This means, when necessary for safe patient care that acute hospital (medical) services may be expanded into Inpatient Rehabilitation and vice versa; also, that Inpatient Behavioral Health may expand to the hospital's acute care beds if the environment is conducive for safe patient care.

In all cases, it is important that the organization provide competent staff, track patient locations, and bill in accordance with the service provided.

Supporting care for Patients in Long-Term Acute Care Hospitals (LTCH)s:

The blanket waiver allows a long-term care hospital (LTCH) to exclude patient stays (where an LTCH admits or discharges patients in order to meet the demands of the emergency) from the 25-day average length of stay requirement which allows these facilities to be paid as LTCHs. *(NOTE: A consideration only when all other efforts have been exhausted).*

Home Health Agencies:

The blanket waiver provides relief to Home Health Agencies on the strict timeframes related to OASIS transmission.

Provider Locations:

CMS provides temporary relief from requirements that out-of-state providers be licensed in the state where they are providing services when they are licensed in another state.

The full document may be accessed at:

<https://www.cms.gov/files/document/covid19-emergency-declaration-health-care-providers-fact-sheet.pdf>

We appreciate your support as we work Together to ensure the safety of our patients, and community at large.

It is important to remember that these waivers only apply to the federal requirements. Any state requirements are still in place unless or until appropriate authorities chose to waive those requirements.