### Purpose of 1135 Waivers

| Sufficient health care items and services are available to meet the needs of Medicare, Medicaid and CHIP beneficiaries; | Health care providers that provide such services in good faith can be reimbursed for them and not subjected to sanctions for noncompliance, absent any fraud or abuse |
In short:

Are CMS regulations impeding your ability to respond to or recover from a disaster?
1135 Waivers

**Scope**
Federal Requirements only, not state licensure

**Purpose**
- Allow reimbursement during an emergency or disaster even if providers can’t comply with certain requirements that would under normal circumstances bar Medicare, Medicaid or CHIP payment

**Duration**
- End no later than the termination of the emergency period, or 60 days from the date the waiver or modification is first published unless the Secretary of HHS extends the waiver by notice for additional periods of up to 60 days, up to the end of the emergency period.
What waivers DON’T do:

- 1135 waivers are not a grant or financial assistance program

- Do not allow reimbursement for services otherwise not covered

- Do not allow individuals to be eligible for Medicare who otherwise would not be eligible

- Should NOT impact any response decisions, such as evacuations.

- Do not last forever. And appropriateness may fade as time goes on.
## Examples of 1135 Waiver Authorities

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<th>Conditions of Participation</th>
<th>Licensure for Physicians or others to provide services in affected state</th>
<th>Emergency Medical Treatment and Labor Act (EMTALA)</th>
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<td>Stark Self-Referral Sanctions</td>
<td>Medicare Advantage out of network providers</td>
<td>HIPAA</td>
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*EMTALA* stands for *Emergency Medical Treatment and Labor Act*, *HIPAA* stands for *Health Insurance Portability and Accountability Act*. CMS stands for *Centers for Medicare & Medicaid Services*. 
1135 Waiver Examples

**EMTALA**
- Request to set up Alternate Screening Locations

**Critical Access Hospitals**
- 42 CFR 485.620
- Requires 25-bed limit and Average Patient stays of less than 96-hours

**Skilled Nursing Facilities**
- SSA 1812 (f)
- Three-day prior hospitalization for SNF Patients
Considerations for Waiver Authority

• Scope and severity of event with specific focus on health care infrastructure

• Are there unmet needs for health care providers?

• Can these unmet needs be resolved within our current regulatory authority?
To issue waivers:

- Presidential Declaration: Stafford Act or National Emergencies Act
- HHS Secretary: Public Health Emergency Declaration
1135 Waiver Review Process

Within defined Emergency Area?

Is there an actual need?

Can this be resolved within current regulations?

What is the expected duration?

Will Regulatory relief requested actually address stated need?

Should we consider individual or blanket waiver?
Waiver Review Inputs

- Facility
- State Emergency and Licensure Staff
- Provider Associations
- HHS Regional Emergency Coordinators
- CMS
Expectations of Waived Providers

Request
- Provide sufficient information to justify actual need

Waived
- Providers and suppliers will be required to keep careful records of beneficiaries to whom they provide services, in order to ensure that proper payment may be made.

Normal Ops
- Providers must resume compliance with normal rules and regulations as soon as they are able to do so
Contact Information

Sandra Pace  
Acting 1135 Waiver Coordinator  
Sandra.pace@cms.hhs.gov

Central Office: SCGEmergencyPrep@cms.hhs.gov

If you have further billing or coverage concerns, contact the Medicare Administrative Contractor (MAC)