



To: WDSC State Agencies and Regional Office Staff

Subject: Informational Bulletin #18-1 regarding Emergency Preparedness Issues

This is the first issue of our WDSC bulletin, the purpose of which is to give periodic updates on topics of interest. We welcome your feedback, suggestions for updates, and questions to be sent to ROSFOSO@cms.hhs.gov

March 27, 2018 Topic: Emergency Preparedness Rule vs. 1135 Waivers

We've been receiving 1135 waiver requests as a result of facilities receiving the following Emergency Preparedness Rule deficiency on surveys: failure to develop an emergency preparedness policy to address the facility's role under an 1135 waiver.

An 1135 waiver can only be considered when the following has occurred:

1. The President declares a disaster or emergency under the Stafford Act or National Emergencies Act
2. The HHS Secretary declares a public health emergency under Section 319 of the Public Health Service Act

With regards to the specific Emergency Preparedness Rule deficiency noted above, the facility should be able to demonstrate, in their policies and procedures, an awareness of the 1135 waiver process and what may be required in the event of needing an 1135 waiver (which the provider would request through the state and regional office). For potential waiver requests during an applicable event, it is helpful to clearly state, in any format the facility chooses, information that will address the scope of the issue and the impact of the disaster including the following basic information:

- Provider Name/Type
- Full Address (including county/city/town/state) CCN (Medicare provider number).
- Contact person and his or her contact information for follow-up questions should the Region need additional clarification.
- Brief summary of why the waiver is needed. *For example:* CAH is sole community provider without reasonable transfer options at this point during the specified emergent event (e.g. flooding, tornado, fires, or flu outbreak). CAH needs a waiver to exceed its bed limit by X number of beds for Y days/weeks (be specific).
- Consideration – Type of relief the facility is seeking or regulatory requirements or regulatory reference that the requestor is seeking to be waived.

For reference materials, please review the guidance on the CMS website, particularly, www.cms.gov/emergency and www.phe.gov/emergency. Information on both sites contain examples of the most recently approved 1135 waivers. Additional information on 1135 waivers can also be found at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/1135-Waivers.html>. Facilities may want to include the websites and some of the materials contained therein as resources in their emergency preparedness plan.