Emergency Preparedness Strategies

In an Era of Increased Natural Disasters

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• Medicaid can play a critical role in helping states and territories respond to public health crises and natural and human-made disasters such as hurricanes, wildfires, and flooding.
To help Medicaid agencies prepare for disasters in the future, the Centers for Medicare & Medicaid Services (CMS) Coverage Learning Collaborative developed a set of tools on the strategies available to support Medicaid operations and enrollees in times of crisis. Those tools are:

– A memorandum which provides a high-level summary of the types of Medicaid and CHIP strategies that can be deployed by states and territories.

– A companion inventory of the various strategies available to states and the action needed to effectuate them.

Together, these two tools serve as a comprehensive disaster preparedness resource for states and territories to have at their fingertips.
Toolkit

• Disaster Response Toolkit:

• In addition to reviewing these tools in advance of a disaster, CMS strongly recommends Medicaid agencies proactively develop disaster preparedness operational protocols for contacting and coordinating with state Medicaid agency personnel.

• In the event of a disaster, state Medicaid agencies should reach out to the Regional Operational Group Director, who will serve as the point of contact for the Center for Medicaid and CHIP Services (CMCS) for shepherding all flexibility requests across CMCS Groups.

• States and territories are encouraged to also make contact with their local Regional offices.
Disaster Related Authorities

- 1135 Waiver
- Medicaid State Plan Amendment
- 1915(c) Waiver Appendix K
- CHIP Disaster Relief State Plan Amendment
- 1115 Demonstration
1135 Waiver Flexibilities

• Under Section 1135 of the Social Security Act, the Secretary has the authority to temporarily waive or modify certain Medicare, Medicaid and CHIP requirements to ensure that sufficient health care items and services are available to meet the needs of enrollees in an emergency area.

• These waivers typically end no later than the termination of the emergency period or 60 days from the date the waiver or modification is first published.
1135 Waiver Flexibilities (cont.)

- The **Secretary** may invoke 1135 Waiver authority when a declaration of emergency or disaster under the National Emergencies Act or Stafford Act and a Public Health Emergency Declaration Under Section 319 of the Public Health Service Act have been declared.
- This authority enables providers to furnish needed items and services in good faith during times of disaster and be reimbursed and exempted from sanctions (absent any determination of fraud or abuse).
Institutional Coverage in Emergencies

• Existing flexibilities
  – States can add an “emergency bed hold” policy in their State Plans to address provider payment during evacuations

• Potential flexibilities under 1135 waiver authority for institutional providers - refer to FAQ from CMS Survey & Certification
  – Waiver of certain admissions requirements such as: the 3-day hospital stay prior to Medicare-covered admission to a nursing facility
  – Extensions on reporting or assessment deadlines
  – Temporary suspension of non-critical services
  – Brief allowance for sheltering individuals at non-certified facilities
Preadmission Screening and Resident Review (PASRR)

• Existing flexibilities
  – Individuals admitted to NFs from a hospital for less than 30 days typically do not need a PASRR screen ("exempted hospital discharge")
  – If an individual is transferred from one NF to another NF during an emergency (even over state lines), this is an interfacility transfer that does not need a new PASRR screen under federal law.

• Potential flexibilities under 1135
  – Suspension of Level I and Level II screening activities for up to 30 days such that everyone entering a NF is treated like an “exempted hospital discharge”
States can elect to use Presumptive Eligibility in the Medicaid state plan for expedient enrollment of individuals into Medicaid coverage.

During an emergency or disaster, the Medicaid agency can act as the qualified entity conducting presumptive eligibility determinations.
This was developed as a standalone appendix to be utilized by the state during emergency situations.

Appendix K should be submitted for each affected waiver and the state should submit Appendix K to the CMS RO SPA/Waiver Mailbox.

It should be used by the state to advise CMS of expected changes to its waiver operations or to request amendment to its approved waiver.

It includes actions that states can take under the existing Section 1915(c) home and community-based services (HCBS) waiver authority in order to respond to an emergency.

This appendix may be completed retroactively, as needed, to the date of the event.
• CMS encourages states and territories to prepare for emergencies and ensure that acute and primary medical resources are available to meet the needs of individuals receiving these services.

• Engaging individuals and families in these efforts and assisting individuals in preparation for emergency situations can be a key to successful system-wide contingency planning.
Changes to administrative activities, such as the establishment of a hotline, suspension of general Medicaid rules that are not addressed in 1915(c), such as payment rules, eligibility rules or suspension of provisions of 1902(a) to which 1915(c) is typically bound.

• Increasing the number of individuals served under the waiver
• Creating an emergency person-centered service plan
• Expanding provider qualifications
• Increasing the pool of providers who can render services
• Instituting or expand opportunities for self-direction
• Permitting payment for short term services in a hospital or institutional stay
Temporarily:

- Increasing individual eligibility cost limits
- Modifying service scope or coverage
- Exceeding service limitations
- Adding services to the waiver
- Providing services in out of state settings
- Permitting payment for services rendered by family caregivers or legally responsible individuals
Limitations on Changes

- The state or territory may not include changes not permitted by statute, such as the inclusion of room and board costs in non-institutional settings.
- CMS will work with states and territories to determine what changes may be needed while also looking at key considerations, such as effective dates and impact to other programs.
CHIP Disaster Relief SPA

- States can submit a CHIP SPA that allows for temporary adjustments to enrollment and redetermination policies during disaster events. [https://www.medicaid.gov/medicaid-chip-program-information/by-topics/childrens-health-insurance-program-chip/downloads/chip_disaster_relief_spa_sample_01102012.pdf](https://www.medicaid.gov/medicaid-chip-program-information/by-topics/childrens-health-insurance-program-chip/downloads/chip_disaster_relief_spa_sample_01102012.pdf)

- The purpose is to implement provisions for temporary adjustments to enrollment and redetermination policies and cost sharing requirements for children in families living and/or working in Governor or FEMA declared disaster areas.

- In the event of a natural disaster, the state will notify CMS that it intends to provide temporary adjustments to its enrollment and/or redetermination policies and cost sharing requirements, the effective and duration date of such adjustments, and the applicable Governor or FEMA declared disaster areas.
In the event of Federal designation of a natural disaster, public health emergency, or other sudden emergency threats to human lives, section 1115 authority has been used to assist states to address the direct impact of such public emergency on Medicaid and CHIP programs.
• States should identify the administrative and medical services flexibilities they believe they need to respond to the public emergency and CMS will work with the state to confirm and determine the scope of program changes needed in an expedited timeframe.

• Budget neutrality for section 1115 demonstrations related to Federally-designated public emergencies is presumed to be met; thereby states are not required to submit a budget neutrality analysis in such requests.
CMS may waive, in whole or in part, the Federal and state public notice and comment procedures to expedite a decision on the state's section 1115 request to address a public emergency.

States will be permitted to discharge its basic responsibilities required by 42 CFR §431.412 for submitting applications to CMS for new or extended demonstrations.

A state must meet all of the following criteria to obtain such an exemption from the normal public notice process requirements:

– The state acted in good faith, and in a diligent, timely, and prudent manner
– The circumstances constitute an emergency and could not have been reasonably foreseen
– Delay would undermine or compromise the purpose of the demonstration and be contrary to the interests of beneficiaries

CMS will publish any disaster exemption determinations within 15 days of approval, as well as the revised timeline for public comment or post-award processes, if applicable.
## Authorities & State Examples: Eligibility and Enrollment

Strategies available to support ongoing eligibility and enrollment during a disaster:

<table>
<thead>
<tr>
<th>STRATEGY</th>
<th>RELEVANT LEGAL AUTHORITY</th>
<th>SELECT STATE EXAMPLES</th>
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<tbody>
<tr>
<td>Allow self-attestation for all eligibility criteria (excluding citizenship and immigration status) on a case-by-case basis for individuals subject to a disaster when documentation is not available.</td>
<td>Authorized under existing regulations 42 CFR §§ 435.945(a), 435.952(c)(3)</td>
<td></td>
</tr>
<tr>
<td>Modify Medicaid/CHIP verification processes (e.g., accept self attestation, adopt or increase reasonable compatibility thresholds).</td>
<td>Verification Plan</td>
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<tr>
<td>Consider Medicaid/CHIP enrollees who are evacuated from the state as “temporarily absent” when assessing residency in order to maintain enrollment (for home state where disaster occurred or public health emergency exists)</td>
<td>Authorized under existing regulation 42 CFR § 403(j)(3) and 42 CFR 457.320(e)</td>
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<tr>
<td>Increase eligibility levels for specific categories within specific geographic regions</td>
<td>1115 Demonstration</td>
<td>1115 Demonstration: New York Disaster Relief Medicaid</td>
</tr>
<tr>
<td>Extend redetermination timelines for current enrollees subject to a disaster to maintain continuity of coverage.</td>
<td>Authorized under existing regulations 42 CFR § 431.211, 42 CFR § 435.912(e)(2), and 42 CFR § 435.930</td>
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<tr>
<td>Adopt presumptive eligibility for eligible populations.</td>
<td>Presumptive Eligibility State Plan Amendment</td>
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<td>Modify additional 1915(c) enrollee targeting criteria in order to serve additional individuals.</td>
<td>1915(c) Waiver Appendix K</td>
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<tr>
<td>Allow enrollees to have more than 120 days (in the case of a managed care appeal) or 90 days (in the case of an eligibility or fee-for-service appeal) to request a fair hearing.</td>
<td>1135 Waiver</td>
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**Authors & State Examples: Access to Services**

Strategies available to support continued access to services during a disaster:

<table>
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<td>Offer additional optional benefits not currently provided under the State Plan that are comparable for all categorically needy eligibility groups, statewide and have free choice of provider, or Alternative Benefit Plan, statewide that has at a minimum free choice of provider.</td>
<td>State Plan or Alternative Benefit Plan</td>
<td></td>
</tr>
<tr>
<td>Provide benefits to a targeted group of enrollees impacted by a disaster.</td>
<td>1115 Demonstration</td>
<td>Flint Approval Letter and STCS (3/3/16)</td>
</tr>
<tr>
<td>Add services to a 1915(c) waiver that are not expressly authorized in statute (so long as the state can demonstrate the service is necessary to assist a waiver participant to avoid institutionalization and function in the community).</td>
<td>1915(c) Waiver Appendix K</td>
<td></td>
</tr>
<tr>
<td>Waive service prior authorization requirements in fee-for-service or managed care.</td>
<td>1135 Waiver (fee-for-service) Managed care contract (managed care)</td>
<td>California Wildfires Approval Letter (1/30/18)</td>
</tr>
<tr>
<td>Temporarily modify requirements for co-payments to support access to services for Medicaid or CHIP enrollees.</td>
<td>Medicaid Cost Sharing State Plan Amendment if applying modifications statewide 1115 Demonstration if <strong>not</strong> applying modifications statewide CHIP State Plan Amendment for either statewide or disaster-affected individuals</td>
<td>Flint Approval Letter and STCS (3/3/16)</td>
</tr>
<tr>
<td>Exempt individuals subject to a disaster from payment of premiums to support access to services for Medicaid or CHIP</td>
<td>Authorized under existing regulation at 42 CFR § 447.55(b)(4); 42 CFR 457.510</td>
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### Authorities & State Examples: Adequate Providers

Strategies to ensure adequate providers to meet the demands of Medicaid enrollees:

<table>
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<tr>
<td>Temporarily waive provider enrollment requirements to ensure a sufficient number of providers are available to serve Medicaid enrollees. Such requirements include the payment of application fees, criminal background checks, or site visits.</td>
<td>1135 Waiver</td>
<td>California Wildfires 1135 Approval Letter (10/20/17)</td>
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<td>Florida Hurricanes 1135 Approval Letter (9/11/17)</td>
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<tr>
<td>Temporarily cease the revalidation of providers who are located in-state or otherwise directly impacted by a disaster.</td>
<td>1135 Waiver</td>
<td>California Wildfires 1135 Approval Letter (10/20/17)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Florida Hurricane 1135 Approval Letter (9/11/17)</td>
</tr>
<tr>
<td>Temporarily waive requirements that physicians and other health care professionals be licensed in the state or territory in which they are providing services, so long as they have equivalent licensing in another state.</td>
<td>1135 Waiver</td>
<td></td>
</tr>
<tr>
<td></td>
<td><em>For purposes of reimbursement only. State law governs whether a non-federal provider is authorized to provide services in the state without state licensure.</em></td>
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</tr>
<tr>
<td>Allow facilities to provide services in alternative settings, such as a temporary shelter, when a provider’s facility is inaccessible.</td>
<td>1135 Waiver</td>
<td>California Wildfires Approval Letter (1/30/18)</td>
</tr>
</tbody>
</table>
What We Have Approved (1 of 5)

• California's Fall 2018 Wildfire Public Health Emergency
  – CMS approved the waiver to allow Nursing Facilities (NFs) to be fully reimbursed for services rendered during an emergency evacuation to an unlicensed facility (where the evacuating licensed NF staff continued to render services).
• California continued:
  – CMS used the flexibilities afforded under Section 1135(b)(l)(C) that allow for waiver or modification of pre-approval requirements.
  – CMS approved a modification of timeframe, under 42 CFR 438.408(1)(2), for managed care enrollees to exercise their appeal rights.
California continued:

- Specifically, any managed care enrollees for whom the 120th day deadline described in 42 CFR 438.408(1)(2) would have occurred between November 8, 2018 through May 7, 2019, are allowed more than 120 days, and up to an additional 120 days to request a State Fair Hearing provided that they make the request no later than May 7, 2019.
• Florida’s Hurricane Michael
  – 42 CFR 431.244(f)(4)(i)(B) allowed the agency to take final administrative action outside of timelines set in regulation when there is an administrative or other emergency beyond the agency’s control. The state should document the reason for delay in the recipient’s case record and document that the policy is in compliance with state’s record keeping practices and seek concurrence from CMS
**South Carolina Medicaid Provider Enrollment Disaster Relief**

With respect to providers not already enrolled with another SMA or Medicare, CMS waived the following screening requirements so the state/territory could provisionally, temporarily, enroll the providers:

- Payment of the application fee - 42 C.F.R 455.460
- Criminal background checks associated with FCBC- 42 C.F.R Section 455.434
- Site visits - 42 C.F.R Section 455.432
- In-state/territory licensure requirements - 42 C.F.R Section 455.412
Other Considerations

- A person-centered service plan (42 CFR §441.301 (c)(2)(vi)) should reflect risk factors and measures in place to minimize them, including individualized back-up plans and strategies when needed.
Potential risks to the participant should be assessed during the service plan development process.

Strategies to mitigate risk should be incorporated into the service plan in a manner sensitive to the person’s preferences, including responsibilities and measures for reducing risks.

Any back up plans and the types of back-up arrangements that are used should be included.

Person-Centered Service Planning Process
Contingency Planning

- Maintaining emergency “Go Bags” that include adequate supply of medication and supplies with a refresh schedule.
- Maintaining adequate food and water supply for shelter in place (for 72 hours) with a refresh schedule.
- Alerting local fire stations, police, and electric companies of medically fragile or equipment dependent individuals ahead of any disaster.
- Development of an evacuation plan with at least two exit strategies that work for each person.

For additional resources for individual planning during disasters please go to:
- [https://www.ready.gov/individuals-access-functional-needs](https://www.ready.gov/individuals-access-functional-needs)
- [https://www.cdc.gov/ncbddd/disabilityandhealth/emergencypreparedness.html](https://www.cdc.gov/ncbddd/disabilityandhealth/emergencypreparedness.html)
QUESTIONS?
Resources

- Disaster Response Toolkit:

- CMS All-Hazards FAQ for Institutional and Home Health Care Providers

- Individual Planning During Disasters
  - https://www.ready.gov/individuals-access-functional-needs
  - https://www.cdc.gov/ncbddd/disabilityandhealth/emergencypreparedness.html