

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services



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Hurricane Sandy and Medicare Disaster Related Claims

Provider Types Affected

This MLN Matters® Special Edition Article is intended for providers and suppliers who submit claims to Medicare contractors (carriers, Fiscal Intermediaries (FIs), Part A/B Medicare Administrative Contractors (A/B MACs)) for services provided to Medicare beneficiaries in the States of New York and New Jersey who were affected by Hurricane Sandy.

What You Need to Know

On October 30, 2012, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, President Obama declared that, as a result of the effects of Hurricane Sandy, a major disaster exists in the State of New Jersey, retroactive to October 26, 2012. On November 1, 2012, Secretary Sebelius of the Department of Health & Human Services (HHS) declared that a public health emergency exists in the State of New Jersey and authorized waivers and modifications under Section 1135 of the Social Security Act, retroactive to October 26, 2012.

Also on October 30, 2012, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, President Obama declared that, as a result of the effects of Hurricane Sandy, a major

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disaster exists in the State of New York, retroactive to October 27, 2012. On October 31, 2012, HHS Secretary Sebelius declared that a public health emergency exists in the State of New York and authorized waivers and modifications under Section 1135 of the Social Security Act (the Act), retroactive to October 27, 2012.

On November 2, 2012, the Acting Administrator of the Centers for Medicare & Medicaid Services (CMS) authorized waivers under Section 1812(f) of the Social Security Act for the entire State of New Jersey, retroactive to October 26, 2012. On October 31, 2012, the Acting Administrator of CMS authorized waivers under Section 1812(f) for the entire State of New York, retroactive to October 27, 2012.

These declarations alter certain Medicare requirements in order to assure that Medicare's Fee-For-Service (FFS) beneficiaries affected by this disaster will have timely access to needed health care services. See the Background section of this article for more details.

Background

Section 1135 and Section 1812(f) Waivers

As a result of the aforementioned declarations, CMS has instructed Medicare contractors as follows:

1. Change Request (CR) 6451 (Transmittal 1784, Publication 100-04) issued on July 31, 2009, applies to items and services furnished to Medicare beneficiaries within the State of New Jersey from October 26, 2012, for the duration of the emergency. CR6451 also applies to items and services furnished to Medicare beneficiaries within the State of New York from October 27, 2012, for the duration of the emergency. In accordance with CR6451, use of the "DR" condition code and the "CR" modifier are mandatory on claims for items and services for which Medicare payment is conditioned on the presence of a "formal waiver" including, but not necessarily limited to, waivers granted under either Section 1135 or Section 1812(f) of the Act.
2. Medicare FFS Questions & Answers (Q&As) posted on the CMS website are applicable for items and services furnished to Medicare beneficiaries within the States of New Jersey and New York. These Q&As are displayed in two files. The first listed file addresses policies and procedures that are applicable without any Section 1135 or other formal waiver. These policies are always applicable in any kind of emergency or disaster, including the current emergency in New York and New Jersey. The second file addresses policies and procedures that are applicable only with a Section 1135 waiver or, when applicable, a Section 1812(f) waiver. These Q&As are effective October 26, 2012, for New Jersey and October 27, 2012, for New York. In both cases, the links below will open the most current document. The date included in the document filename will change as new information is added, or existing information revised.
 - a) Q&As applicable without any Section 1135 or other formal waiver are available at http://www.cms.gov/Emergency/Downloads/Consolidated_Medicare_FFS_Emergency_QsAs.pdf on the CMS website; and

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- b) Q&As applicable only with a Section 1135 waiver or, when applicable, a Section 1812(f) waiver, are available at <http://www.cms.gov/Emergency/downloads/MedicareFFS-EmergencyQsAs1135Waiver.pdf> on the CMS website.

Blanket Waivers Issued by CMS

Under the authority of Section 1135 (or, as noted below, Section 1812(f)), CMS has issued blanket waivers in the affected area of **New York and New Jersey**. Individual facilities do not need to apply for the following approved blanket waivers:

All Providers

- Bed Capacity: The states of New York and New Jersey are authorized to process certified bed increases for hospitals and nursing homes, per the request from the facility.
- CMS has suspended onsite survey activities (except for investigations of immediate jeopardy allegations) in areas impacted by the storm.

Skilled Nursing Facilities

- Waiver of 3-day prior hospitalization under Section 1812(f) for coverage of a Skilled Nursing Facility stay (Blanket waiver)
- 42 CFR 483.20: Timeframe requirements for Minimum Data Set assessments and transmission (Blanket waiver for all impacted facilities)

Home Health Agencies

- 42 CFR 484.20(c)(1): OASIS Transmission timeframes (Blanket waiver for all impacted agencies)
- 42 CFR 484.36(d)(2): Two Week Aide Supervision requirements by an RN (Blanket waiver for all impacted agencies)
- Home health agencies should monitor information posted at <http://www.cms.gov/Emergency> for updates on waivers.

Hospice

- 42 CFR 418.76: Supervision of Hospice Aides every 14 days by a registered nurse (Blanket waiver for all impacted agencies)
- Hospice agencies should monitor information posted at <http://www.cms.gov/Emergency> for updates on waivers related to hospice providers.

End Stage Renal Disease (ESRD)

In response to concerns about dialyzing ESRD patients on an outpatient basis, CMS clarified that when an ESRD patient who cannot obtain his or her regularly scheduled dialysis treatment at a certified ESRD facility and has a medical need to receive an unscheduled or emergency dialysis

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session in an outpatient hospital setting, the service is payable under the Outpatient Prospective Payment System (OPPS).

Disclosure of Health Insurance Claim Number (HICN) for Provider Billing Over the Telephone During a Public Health Emergency

During a public health emergency, CMS recognizes that a beneficiary may present to a Medicare provider without his or her HICN. Therefore, **under these circumstances only**, Medicare contractors may disclose the HICN to a provider, in order to bill Medicare when the provider gives four pieces of beneficiary identifying information. These may include: Social Security Number (SSN), date of birth, address on file, telephone number, effective date(s) of Medicare entitlement, and whether the beneficiary has Part A and/or Part B coverage.

Medicare contractors should still make every effort to obtain four pieces of identifying information, including the HICN, during a Public Health Emergency (PHE). However, if the HICN is not known, it may be **any** four pieces of identifying information. In situations where the provider is unable to provide four pieces of identifying information, the contractor should use professional judgment to determine whether or not the release of the HICN is appropriate under the circumstances.

In addition, the contractor must make every attempt to verify that the person requesting the HICN is the provider of service. The contractor should use the Provider Enrollment, Chain and Ownership System (PECOS) to verify the provider's SSN, date of birth, and Provider Transaction Access Number (PTAN). For organizational providers, the contractor should use PECOS to verify the name of the authorized or delegated official on file for the provider.

Additional Information

The Federal Emergency Management Agency (FEMA) website is available at <http://www.fema.gov/sandy> on the Internet. It contains information on special disaster assistance, including the availability of emergency shelters for those who are unable to remain in or return to their homes due to the disaster.

For assistance, New York providers may contact the New York State Department of Health's special emergency hotline number at **(866) 544-1303**. New Jersey providers may contact the New Jersey State Department of Health's special emergency hotline number at **(866) 234-0964**.

Additional CMS-specific information on Hurricane Sandy is available on the CMS Emergency web page at <http://www.cms.gov/Emergency> on the CMS website. This web page includes links to the following documents:

- Provider Survey and Certification Frequently Asked Questions (FAQs);
- Section 1135 Waiver Summary and Q&As;
- Medicare FFS Emergency Q&As (applicable **without** a Section 1135 or other formal waiver);
- Medicare FFS Emergency Q&As (applicable **only with** a Section 1135 or, when applicable, an 1812(f) waiver); and
- Health Emergency Declarations and Waivers.

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If you have any questions, please contact your Medicare contractor at their toll-free number, which may be found at <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/provider-compliance-interactive-map/index.html> on the CMS website.

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