



Arkansas Department of Health

5800 West Tenth St. Suite 400 • Little Rock, Arkansas 72204 • Telephone (501) 661-2201
Governor Asa Hutchinson
Nathaniel Smith, MD, MPH, Secretary of Health

To: Arkansas hospitals
From: Arkansas Department of Health (ADH) – Health Facility Services
Date: March 16, 2020
Re: CMS 1135 Waiver guidance

CMS 1135 Waiver Request Process

The following information is required for any impacted provider seeking a potential 1135 waiver:

- 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 Dallas Regional Office 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 you are seeking or regulatory requirements or regulatory reference that the requestor is seeking to be waived.
- There is no specific form or format that is required to submit the information, but it is helpful to clearly state the scope of the issue and the impact.

If a waiver is requested, the information should come directly from the impacted provider and be emailed to the Dallas Regional Office mailbox with a copy to the ADH Health Facility Services (email addresses below) to make sure the waiver request does not conflict with any State requirements and all concerns are addressed timely.

Email Address for CMS Dallas Regional Offices:

RODALDSC@cms.hhs.gov

Email Address for Arkansas Department of Health, Health Facility Services:

Rebecca.bennett@arkansas.gov

CMS 1135 Program

When the President declares a disaster or emergency under the Stafford Act or National Emergencies Act and the HHS Secretary declares a public health emergency under Section 319 of the Public Health Service Act, the Secretary is authorized to take certain actions in addition to her regular authorities. For example, under section 1135 of the Social Security Act, they may temporarily waive or modify certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) requirements to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in Social Security Act programs in the emergency area and time periods and



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that providers who provide such services in good faith can be reimbursed and exempted from sanctions (absent any determination of fraud or abuse).

Examples of these 1135 waivers or modifications include:

- Conditions of participation or other certification requirements
- Program participation and similar requirements
- Preapproval requirements
- Requirements that physicians and other health care professionals be licensed in the State in which they are providing services, so long as they have equivalent licensing in another State (this waiver is for purposes of Medicare, Medicaid, and CHIP reimbursement only – state law governs whether a non-Federal provider is authorized to provide services in the state without state licensure)
- Emergency Medical Treatment and Labor Act (EMTALA)
- Stark self-referral sanctions
- Performance deadlines and timetables may be adjusted (but not waived).
- Limitations on payment for health care items and services furnished to Medicare Advantage enrollees by non-network providers

These waivers under section 1135 of the Social Security Act typically 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.

More information on Emergency Preparedness and 1135 Waiver Program:

<https://www.google.com/search?q=SCG+Emergency+Preparedness&oq=SCG+Emergency+Preparedness&aqs=chrome..69i57j0.1350j0j8&sourceid=chrome&ie=UTF-8>