



You Should Know

Emergency preparedness requirements for Medicare and Medicaid participating providers and suppliers (from CMS.gov)

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Purpose

The final rule published 9/16/2016 by the Centers for Medicare & Medicaid Services establishes national emergency preparedness **requirements for Medicare and Medicaid participating providers and suppliers** to plan adequately for both natural and man-made disasters and coordinate with federal, state, tribal, regional and local emergency preparedness systems.¹ It will also assist providers and suppliers to adequately prepare to meet the needs of patients, residents, clients and participants during disasters and emergency situations. The regulations are intended to provide consistent emergency preparedness requirements, enhance patient safety during emergencies for persons served by Medicare and Medicaid participating facilities, and establish a more coordinated and defined response to natural and man-made disasters. These requirements are part of the federal health and safety standards that long-term care facilities must meet in order to participate in the Medicare or Medicaid programs by the Centers for Medicare & Medicaid Services (CMS) of the Department of Health and Human Services (HHS).

Dates

Effective date: These regulations are effective on November 15, 2016.

Implementation date: These regulations must be implemented by November 15, 2017.

Target audience: Health care organizations that are CMS providers and suppliers and other interested stakeholders. The following are the statutory and regulatory citations for the providers and suppliers for which CMS is issuing emergency preparedness regulations:

- Religious nonmedical health care institutions (RNHCIs) — section 1821 of the Act and [42 CFR 403.700](#) through 403.756
- Ambulatory surgical centers (ASCs) — section 1832(a)(2)(F)(i) of the Act and [42 CFR 416.2](#) and 416.40 through 416.52
- Hospices — section 1861(dd)(1) of the Act and [42 CFR 418.52](#) through 418.116
- Inpatient psychiatric services for individuals under age 21 in psychiatric residential treatment facilities (PRTFs) — sections 1905(a) and 1905(h) of the Act and [42 CFR 441.150](#) through 441.182 and [42 CFR 483.350](#) through 483.376
- Programs of all-inclusive care for the elderly (PACE) — sections 1894, 1905(a), and 1934 of the Act and [42 CFR 460.2](#) through 460.210

- Hospitals — section 1861(e)(9) of the Act and [42 CFR 482.1](#) through 482.66
- Transplant centers — sections 1861(e)(9) and 1881(b)(1) of the Act and [42 CFR 482.68](#) through 482.104
- Long-term care (LTC) facilities — skilled nursing facilities (SNFs) — under section 1819 of the Act, nursing facilities (NFs) — under section 1919 of the Act, and [42 CFR 483.1](#) through 483.180
- Intermediate care facilities for individuals with intellectual disabilities (ICF/IID) — section 1905(d) of the Act and [42 CFR 483.400](#) through 483.480
- Home health agencies (HHAs) — sections 1861(o), 1891 of the Act and [42 CFR 484.1](#) through 484.55
- Comprehensive outpatient rehabilitation facilities (CORFs) — section 1861(cc)(2) of the Act and [42 CFR 485.50](#) through 485.74
- Critical access hospitals (CAHs) — sections 1820 and 1861(mm) of the Act and [42 CFR 485.601](#) through 485.647
- Clinics, rehabilitation agencies, and public health agencies as providers of outpatient physical therapy and speech-language pathology services — section 1861(p) of the Act and [42 CFR 485.701](#) through 485.729
- Community mental health centers (CMHCs) — section 1861(ff)(3)(B)(i)(ii) of the Act, section 1913(c)(1) of the PHS Act, and [42 CFR 410.110](#)
- Organ procurement organizations (OPOs) — section 1138 of the Act and section 371 of the PHS Act and [42 CFR 486.301](#) through 486.348
- Rural health clinics (RHCs) — section 1861(aa) of the Act and [42 CFR 491.1](#) through 491.11; Federally Qualified Health Centers (FQHCs) — section 1861(aa) of the Act and [42 CFR 491.1](#) through 491.11, except 491.3
- End-stage renal disease (ESRD) facilities — sections 1881(b), 1881(c), 1881(f)(7) of the Act and [42 CFR 494.1](#) through 494.180

Background

Numerous natural and man-made disasters have challenged the U.S. over the past several years. Disasters can disrupt the environment of health care and change the demand for health care services; therefore, it is essential that health care facilities integrate emergency management into their daily functions and values.

Previous events include the 2009 H1N1 influenza pandemic, the 2001 anthrax attacks, the tornados in 2011 and 2012, and Superstorm Sandy in 2012. In 2014, the U.S. faced a number of new and emerging diseases, such as MERS-CoV and Ebola, and a nationwide outbreak of Enterovirus D68. CMS believes that finalizing the emergency preparedness rule is an important part of improving the national response to infectious disease threats.

Health care providers have raised concerns about their safety when caring for patients with Ebola and other infectious diseases, citing the need for advanced preparation, effective policies and procedures, communication plans, and sufficient training and testing, particularly for personal protection equipment (PPE). The response highlighted the importance of establishing written procedures, protocols and policies ahead of an emergency event. With the finalization of the emergency preparedness rule, this type of planning will be mandated for Medicare and Medicaid participating hospitals and other providers and suppliers through the conditions of participation (CoPs) and conditions for coverage (CfCs) established by this rule.

Summary of the major provisions

The final rule addresses the three key essentials that CMS believes are necessary for maintaining access to health care services during emergencies:

1. Safeguarding human resources
2. Maintaining business continuity
3. Protecting physical resources

CMS believes that current regulations for Medicare and Medicaid providers and suppliers do not adequately address these key elements.

Four core elements have been identified that CMS believes are central to an effective and comprehensive framework of emergency preparedness requirements for the various Medicare and Medicaid participating providers and suppliers. The four elements of the emergency preparedness program are:

- 1. Risk assessment and emergency planning:** Facilities will be required to perform a risk assessment that uses an “all-hazards” approach prior to establishing an emergency plan. The all-hazards risk assessment will be used to identify the essential components to be integrated into the facility emergency plan based on vulnerabilities identified. An all-hazards approach is an integrated approach to emergency preparedness planning that focuses on capacities and capabilities critical to preparedness for a full spectrum of emergencies or disasters. This approach is specific to the location of the provider or supplier and considers the particular types of hazards most likely to occur in their areas. These may include, but are not limited to, care-related emergencies; equipment and power failures; interruptions in

communications, including cyber-attacks; loss of a portion or all of a facility; and interruptions in the normal supply of essentials, such as water and food.

- 2. Policies and procedures:** Facilities will be required to develop and implement policies and procedures that support the successful execution of the emergency plan and risks identified during the risk assessment process.
- 3. Communication plan:** Facilities will be required to develop and maintain an emergency preparedness communication plan that complies with both federal and state law. Patient care must be well-coordinated within the facility, across health care providers, and with state and local public health departments and emergency management agencies and systems to protect patient health and safety in the event of a disaster. The use of an Incident Command System and backup means of communication in the event of power or connectivity loss should be considered in the plan.
- 4. Training and testing:** Facilities will be required to develop and maintain an emergency preparedness training and testing program. A well-organized, effective training program must include initial training for new and existing staff in emergency preparedness policies and procedures as well as annual refresher trainings. The facility must offer annual emergency preparedness training so that staff can demonstrate knowledge of emergency procedures. The facility must also conduct drills and exercises, including at least one full community drill to test the emergency plan to identify gaps and areas for improvement. Maintaining documentation of these drills and employee training sessions is necessary to show evidence of employee and facility readiness. After-action report/improvement plan (AAR/IP) following the Homeland Security Exercise and Evaluation Program (HSEEP) formula are suggested methodologies.

What to do

Medicare and Medicaid participating providers and suppliers should take the following actions to prepare for compliance with this rule by the effective date (11/15/2017):

- Read the new rule from CMS in the Federal Register (link found in References below).
- Complete a gap assessment of current status to the requirements under the new rule to determine if any gap exists.
- Create a plan to address gaps that may have been found in the assessment.
- Monitor action plan to closure.

Willis Towers Watson is available to help support your efforts if you would like to discuss.

For additional information or assistance contact your Willis Towers Watson Client Relationship Manager or:

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<https://www.federalregister.gov/documents/2016/09/16/2016-21404/medicare-and-medicaid-programs-emergency-preparedness-requirements-for-medicare-and-medicaid> Federal Register: Medicare and Medicaid Programs; Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers

Additional references:

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>

https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/index.html?redirect=/SurveyCertEmergPrep/03_HealthCareProviderGuidance.asp CMS Survey & Certification - Emergency Preparedness

<https://asprtracie.hhs.gov/documents/cms-ep-rule-resources-at-your-fingertips.pdf>
CMS EP Rule: Resources at Your Fingertips

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