



Center for Clinical Standards and Quality/Quality, Safety & Oversight Group

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DATE: January 11, 2021

TO: State Survey Agency Directors

FROM: Directors,
Quality, Safety & Oversight Group (QSOG) and Survey & Operations Group (SOG)

SUBJECT: New Platform for Submissions of 1135 Waiver Requests and Inquiries – Go Live

Memorandum Summary

- ***New Web Platform for 1135 Waivers and Inquiries*** – The Centers for Medicare & Medicaid Services (CMS) is announcing a new web-based tool to assist Medicare/Medicaid-participating providers and suppliers in submission of 1135 Waiver requests and inquiries. With very limited exception, the new web system should be used for all 1135 waiver requests and/or PHE-related inquiries submitted on or after January 11, 2021.
- Waiver requests related to Physician Self-Referral (Stark Law) should *not* be submitted via the new web portal. For these requests, please visit: <https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/Spotlight> for additional information.
- This policy memorandum outlines the new changes to submission of 1135 Waiver requests/inquiries as well as resources available to providers and suppliers during the current COVID-19 Public Health Emergency (PHE) and future emergency events.

Background

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 (PHE) under Section 319 of the Public Health Service Act, the Secretary is authorized to take certain actions in addition to the Secretary's regular authorities.

Under section 1135 of the Social Security Act (Act), the Secretary 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 Medicare, Medicaid and CHIP in the emergency area for the duration of the emergency, and that participating providers who provide services in good faith can be reimbursed and exempted from sanctions to the extent permitted by the waiver.

Discussion

The COVID-19 PHE brought to light several challenges related to the submission, tracking and issuance of 1135 Waivers due to the volume of requests for flexibilities by the provider and supplier community. These waivers or modifications included waivers of certain conditions of participation or other certification requirements; flexibilities surrounding licensure of physicians and other health care professionals; Emergency Medical Treatment and Labor Act (EMTALA) requirements; and more. For a full list, please visit

<https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>.

During prior emergency declarations by the President and Secretary, providers and suppliers seeking waivers of provisions, which are authorized to be waived under Titles XVIII, XIX and/or XXI (see section 1135(b) of the Act), would submit their request in an informal email to one of 10 CMS Survey and Operations Group (SOG) locations. These requests were then reviewed by the SOG Locations and approved/granted on a case-by-case basis.

New Tool for Submission of 1135 Waivers

In light of the volume of 1135 waiver requests associated with the COVID-19 PHE, CMS has developed a new web-based tool which will be **live starting January 11, 2021**, and will be located at [CMS PHE Emergency Web Portal](#)

The new tool is a web-based platform, accessible on either a Personal Computer (PC) or mobile device using Chrome or Firefox as your preferred browser. Designed to reduce burden and streamline the submissions of 1135 waiver requests/inquiries in a simple-to-use format, it assists in expediting review of submissions, triages requests or inquiries, and tracks/reports on a national scale. **NOTE:** Under **Section 1135 or 1812(f) of the Social Security Act (regarding extended care services that are not subsequent to a hospital stay)**, CMS is authorized to issue blanket waivers during a disaster or emergency. Blanket waivers allow CMS to provide flexibilities and modifications nationally or in specific geographic areas. When a blanket waiver is issued, providers or suppliers do not have to apply for an individual waiver. In the absence of a blanket waiver, providers may ask for an individual Section 1135 waiver. For additional information on current blanket 1135 waivers or flexibilities, please visit <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>.

If you or your organization have a question for CMS regarding a PHE, please visit the 1135 web-based portal to submit a PHE-related Inquiry. If you or your organization would like to request an 1135 waiver during a PHE, then also visit the web-based portal to submit your request.

Resources

CMS is providing training on this new system at the following link:

[CMS YouTube 1135 Waiver and Inquiry Web Training](#).

Contact: Questions about this memorandum should be addressed to 1135waiver@cms.hhs.gov.

Effective Date: Immediately. This policy should be communicated to all survey and certification staff, their managers and the State/CMS Location training coordinators immediately.

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cc: Survey and Operations Group Management

Center for Medicaid and CHIP Services (CMCS)

Emergency Preparedness & Response Office (EPRO)

Office of Program Operations and Local Engagement (OPOLE)

Centers for Clinical Standards and Quality (CCSQ)