

## **Temporary Hospitals Established in Response to Catastrophic Damage from Hurricanes**

Several hospitals in the US Virgin Islands and Puerto Rico sustained catastrophic damage during Hurricanes Irma and Maria. As a result, temporary hospitals will be established and hospital services will be provided in those structures while the main hospitals are reconstructed, which may take two years or more given the level of damaged sustained. CMS has been asked to consider the implications for hospital compliance with CMS regulations, given the establishment of the hospitals in temporary structures.

In responding to this inquiry, CMS is assuming the temporary hospitals will be placed near, but not on, current hospital grounds, and that the services provided will be similar to those provided by each hospital prior to the hurricanes. In addition, CMS assumes the hospitals are relocating, rather than setting up a provider-based department at the new location.

### **Survey and Certification Requirements**

For each temporary hospital, the services provided may only include basic hospital services and the optional services which the hospital provided at the last certification survey. The hospital may not provide any optional services that it was not providing previously. An updated CMS-855A Medicare Enrollment Application for Institutional Providers must be submitted to the assigned Medicare Administrative Contractor, which includes updated information of the location/address of the temporary hospital. The hospital is also required to maintain a current operating license. Additionally, advance notification of plans for rebuilding or renovation of the original hospital structure should be given to the CMS Regional office.

The Medicare hospital Conditions of Participation (CoPs) set health and safety standards for all Medicare and Medicaid-participating hospitals. However, CMS's Survey & Certification (S&C) Division may waive some of these requirements as necessary, at the request of the hospital, on a temporary basis, due to a declared emergency. CMS would require that the hospital keep the CMS Division of Survey and Certification in the Regional Office aware of changes in circumstances or operational issues on an ongoing basis. CMS may require regular reporting/monitoring of any identified operational concerns and may implement survey activity to assess compliance during the temporary hospital's duration of operation.

### **Payment and Billing Issues and Concerns**

As long as each hospital continues to provide services, billing and payment for hospital services would continue for both inpatient and outpatient hospital services as prior to the emergency. The hospital should work with its Medicare Administrative Contractor (MAC) to answer any specific billing inquiries and to ensure accurate cost reporting. For example, any material or staff provided without cost to the hospital should not be reflected as an allowable cost on the cost report.

For TEFRA hospitals: a hospital paid under TEFRA for inpatient care may request an *extraordinary circumstances exception* under 42 CFR §413.40(g)(2) to their TEFRA limits for the affected period, if justified based on increased inpatient treatment costs related to repair and relocation.

For IPPS hospitals: An IPPS hospital facing major structural damage may apply for capital PPS extraordinary circumstances exception payments. To receive payments under the Capital PPS

Extraordinary Circumstances Exception provision, a hospital that may be eligible for such payments must make a written request to its CMS Regional Office (RO) within 180 days after the occurrence of the extraordinary circumstance causing the unanticipated expenditures for a determination by CMS. If necessary, additional supporting information and documentation may be sent after the 180 day period provided that an initial written request was made to the appropriate RO in a timely manner.

See question O4 in the non-1135 questions and answers related to an emergency, located at: [https://www.cms.gov/About-CMS/Agency-Information/Emergency/Downloads/Consolidated Medicare FFS Emergency QsAs.pdf](https://www.cms.gov/About-CMS/Agency-Information/Emergency/Downloads/Consolidated_Medicare_FFS_Emergency_QsAs.pdf)

For professionals providing services at the hospitals, Medicare billing would continue as prior to the emergency, i.e., professionals would bill using the appropriate place of service code, and payment will be calculated as previously done.

If any financial relationships between the hospitals and physicians (or their immediate family members) change, as a result of the emergency and temporary relocation, the hospital should consult with CMS as to whether there are physician self-referral law (“Stark law”) implications that should be examined, to determine if a waiver request under section 1135 is appropriate.

For professionals billing Medicare who are temporarily changing their practice location in response to the emergency, CMS previously announced that it was waiving the practice location reporting requirements and temporarily not taking enforcement actions for failure to report. This also applies to providers who fail to provide notification of their temporary practice location. This temporary process will remain in effect starting from the declared disaster effective dates (Sept. 10, 2017, for Florida and Puerto Rico; Sept. 7, 2017, for the U.S. Virgin Islands) until the disaster designation is lifted. If the temporary location is being utilized until the permanent location is re-established, it must be reported to CMS. For details read this [press release](#).

For Medicare Part B providers not previously affiliated with the hospitals, CMS is waiving the following enrollment requirements: 1) Payment of the application fee, 2) Finger print based criminal background checks, 3) Site visits, and 4) In-state licensure requirements; for details read this [press release](#). In addition, providers will be able to initiate temporary Medicare billing privileges over-the-phone and on the same day. Medicare Part B professionals can find more information regarding Hurricanes Irma and Maria by reviewing this [web link](#).

Memoranda of Understanding should be established with appropriate nearby hospitals for services unavailable in the immediate area of the damaged hospital.