

Super Typhoon Bavi – Available Waivers for Guam and the Commonwealth of the Northern Mariana Islands Health Care Providers

CMS is empowered to take proactive steps to help providers through waivers issued pursuant to section 1135 of the Social Security Act (the Act). The following blanket waivers and other flexibilities are in effect through the end of the Super Typhoon Bavi Public Health Emergency (PHE) declaration signed July 9, 2026, retroactively from July 2, 2026, or when no longer needed. Despite the availability of blanket waivers, suppliers and providers should strive to return to their normal practice as soon as possible.

Blanket waivers DO NOT need to be submitted via the CMS 1135 Waiver Portal (https://cmsqualitysupport.servicenowservices.com/cms_1135) or via notification to the CMS Survey & Operations Group and are applied automatically by surveyors.

Medical and Other Health Services

- **Audio-Only Telehealth for Certain Services.** Pursuant to authority granted under 1135(b)(8), CMS is waiving the requirements of section 1834(m)(1) of the Social Security Act and 42 CFR § 410.78(a)(3) for the use of interactive telecommunications systems to furnish telehealth services, to the extent they require use of video technology, for certain services. This waiver allows the use of audio-only equipment to furnish services described by the codes for audio-only telephone evaluation and management services, and behavioral health counseling and educational services. Unless provided otherwise, other services included on the Medicare telehealth services list must be furnished using, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner.
- **Medicare Telehealth - Originating Sites.** CMS is waiving certain Medicare telehealth payment requirements to allow beneficiaries in all areas of the country to receive telehealth services, including at their home. Under the waiver, limitations on where Medicare patients are eligible for telehealth will be removed during the emergency. In particular, patients outside of rural areas, and patients in their homes will be eligible for telehealth services.
- **Nursing Services.** CMS is waiving the requirements at 42 CFR § 482.23(b)(4) which requires the nursing staff to develop and keep current a nursing care plan for each patient, and requires the hospital to have policies and procedures in place establishing which outpatient departments are not required to have a registered nurse present. These waivers allow nurses increased time to meet the clinical care needs of each patient and allow for the

provision of nursing care to an increased number of patients. These flexibilities may be implemented so long as they are not inconsistent with a state or pandemic/emergency plan.

- **Emergency Medical Treatment & Labor Act (EMTALA).** CMS is waiving the enforcement of section 1867(a) of the Act to allow hospitals and psychiatric hospitals to screen patients at a location offsite from the hospital's campus, so long as such screening is not inconsistent with a state's emergency preparedness plan or pandemic plan.
- **Physician Privileges at Hospitals.** CMS is waiving requirements under 42 CFR §482.22(a)(1)-(4) to allow for physicians whose privileges will expire to continue practicing at a hospital, and for new physicians to be able to practice before full medical staff/governing body review and approval, in order to address workforce concerns.
- **Temporary Site.** CMS is waiving certain physical environment requirements under the hospital and critical access hospital Conditions of Participation at 42 CFR § 482.41 and 42 CFR § 485.623 to allow increased flexibilities for surge capacity and continuity of operations due to the current emergency. CMS will permit facility and non-facility space that is not normally used for patient care to be utilized for patient care, provided the location is approved by the state or territorial authority, safety and comfort for patients and staff are sufficiently addressed, and the arrangement is consistent with the applicable emergency preparedness plan. This waiver is temporary and applies only for the duration of the approved emergency period, unless earlier terminated or extended by CMS.
- **Certain staffing requirements:** CMS has been waiving the requirement in the second sentence of 42 CFR §491.8(a)(6) that a nurse practitioner, physician assistant, or certified nurse-midwife be available to furnish patient care services at least 50% of the time the RHC and FQHC operates. CMS is not waiving the first sentence of §491.8(a)(6), which requires a physician, nurse practitioner, physician assistant, certified nurse-midwife, clinical social worker, or clinical psychologist to be available to furnish patient care services at all times the clinic or center operates. This will assist in addressing potential staffing shortages by increasing flexibility regarding staffing mixes during the PHE. CMS is exploring options to make this flexibility permanent.
- **Physician Supervision of NPs in RHCs and FQHCs.** 42 CFR 491.8(b)(1). We are modifying the requirement that physicians must provide medical direction for the clinic's or center's health care activities and consultation for, and medical supervision of, the health care staff, only with respect to medical supervision of nurse practitioners, and only to the extent permitted by state law. The physician, either in person or through telehealth and other remote communications, continues to be responsible for providing medical direction for the clinic or center's health care activities and consultation for the health care staff, and medical supervision of the remaining health care staff. This allows RHCs and FQHCs to use nurse practitioners to the fullest extent possible and allows physicians to direct their time to more critical tasks.

Replacement Prescription Fills

- Medicare payment may be permitted for replacement prescription fills (for a quantity up to the amount originally dispensed) of covered Part B drugs in circumstances where dispensed medication has been lost or otherwise rendered unusable by damage due to the disaster or emergency.

Long Term Care Facilities/Skilled Nursing Facilities/Home Health

- **Initial Assessments.** CMS is waiving the requirements at 42 CFR § 484.55(a) to allow HHAs to perform Medicare-covered initial assessments and determine patients' homebound status remotely or by record review. This will allow patients to be cared for in the best environment for them while supporting infection control and reducing impact on acute care and long-term care facilities, and allow clinicians to focus on caring for patients with the greatest acuity.
- **Waive Onsite Visits for HHA Aide Supervision.** CMS is waiving the requirements at 42 CFR § 484.80(h), which require a nurse to conduct an onsite visit every two weeks. This waiver is also temporarily suspending the 2-week aide supervision by a registered nurse for home health agencies requirement at § 484.80(h)(1), but virtual supervision is encouraged during the period of the waiver. CMS will end this waiver at the conclusion of the PHE.
- **12-hour Annual In-service Training Requirement for Home Health Aides.** CMS is waiving the requirements at 42 CFR § 484.80(h), which require a nurse to conduct an onsite visit every two weeks. This would include waiving the requirements for a nurse or other professional to conduct an onsite visit every two weeks, as this may not be physically possible for a period of time. This waiver is also temporarily suspending the 2-week aide supervision by a registered nurse for home health agencies requirement at 42 CFR § 484.80(h)(1), but virtual supervision is encouraged during the period of the waiver.

End-Stage Renal Dialysis (ESRD) Facilities

- **Ability to Delay Some Patient Assessments.** CMS is not waiving subsections (a) or (c) of 42 CFR § 494.80 but is waiving the following requirements at 42 CFR § 494.80(b) related to the frequency of assessments for patients admitted to the dialysis facility. CMS is waiving the "on-time" requirements for the initial and follow up comprehensive assessments within the specified timeframes as noted below. This waiver applies to assessments conducted by members of the interdisciplinary team, including: a registered nurse, a physician treating the patient for ESRD, a social worker, and a dietitian. These waivers are intended to ensure that dialysis facilities are able to focus on the operations related to the Public Health Emergency. Specifically, CMS is waiving:

- §494.80(b)(1): An initial comprehensive assessment must be conducted on all new patients (that is, all admissions to a dialysis facility), within the latter of 30 calendar days or 13 outpatient hemodialysis sessions beginning with the first outpatient dialysis session.
 - §494.80(b)(2): A follow up comprehensive reassessment must occur within 3 months after the completion of the initial assessment to provide information to adjust the patient's plan of care specified in §494.90.
- **Time period for initiation of care planning 42 CFR §494.90(b)(2):** CMS is modifying the requirement that requires the dialysis facility to implement the initial plan of care within the latter of 30 calendar days after admission to the dialysis facility or 13 outpatient hemodialysis sessions beginning with the first outpatient dialysis session. This modification will also apply to the requirement for monthly or annual updates of the plan of care within 15 days of the completion of the additional patient assessments.
- **Time period for initiation of care planning §494.90(b)(4):** CMS is modifying the requirement that requires the ESRD dialysis facility to ensure that all dialysis patients are seen by a physician, nurse practitioner, clinical nurse specialist, or physician's assistant providing ESRD care at least monthly, and periodically while the hemodialysis patient is receiving in-facility dialysis. CMS is waiving the requirement for a monthly in-person visit if the patient is considered stable and also recommends exercising telehealth flexibilities, e.g. phone calls, to ensure patient safety.
- **Special Purpose Renal Dialysis Facilities (SPRDF) Designation Expanded.** CMS authorizes the establishment of SPRDFs under 42 CFR §494.120 to address access to care issues and the need to mitigate transmission of possible infections that may result following a hurricane among vulnerable populations. This will not include the normal determination regarding lack of access to care at §494.120(b) as this standard has been met during the period of the national emergency. Approval as a Special Purpose Renal Dialysis Facility does not require Federal survey prior to providing services.
- **Temporary Modification of Staff Orientation Requirements.** CMS is temporarily modifying the requirement at 42 CFR § 494.180(b)(3) that all staff, including the medical director, have full orientation to the facility and their work responsibilities before furnishing services. During the emergency period, ESRD facilities in the approved emergency area may use abbreviated, just-in-time, or phased orientation for temporary, reassigned, volunteer, or relief personnel needed to maintain dialysis operations during the PHE.