

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-08-33

DATE: September 02, 2008
TO: State Survey Agency Directors
FROM: Director
Survey and Certification Group
SUBJECT: Survey and Certification Issues Related to Hurricane Gustav

Memorandum Summary

- **Situation:** Several States in the Gulf region have been seriously impacted during this year's hurricane season. The citizens of Louisiana, Texas, Mississippi, and Alabama have especially faced difficult circumstances in responding to Hurricane Gustav.
- **Emergency Declaration:** The President has declared a national emergency in specified counties in the States of Louisiana, Texas, Mississippi, and Alabama. In addition, Mike Leavitt, the Secretary of the U.S. Department of Health and Human Services, has declared a public health emergency in specified counties in these same States.
- **Authority:** CMS may waive or modify, to the extent necessary, certain requirements, or timetables if providers, acting in good faith to provide needed forms and services, are unable to comply with the requirements as a result of the effects of the disaster.

During the past week, several States have quickly responded to protect their citizens as Hurricane Gustav approached the Gulf Coast. The citizens of Louisiana, Texas, Mississippi, and Alabama have especially been affected, and many health care providers have evacuated hundreds of patients and residents to safe locations, to ensure their health and well-being. CMS fully supports the efforts of the many affected health care providers in these States, as well as the numerous providers that are offering their assistance. These extraordinary circumstances will be taken into account as we apply the Medicare and Medicaid standards that are designed to assure quality of care for all beneficiaries.

Mike Leavitt, the Health and Human Services Secretary, has declared a public health emergency in affected counties in the States of Louisiana, Texas, Mississippi, and Alabama (see http://www.cms.hhs.gov/Emergency/Downloads/PublicHealthEmergency_Declaration.pdf) which invokes time-limited statutory authority under section 1135(b) of the Social Security Act (SSA) to permit the Centers for Medicare & Medicaid Services (CMS) and its agents to waive or modify certain requirements, or modify certain deadlines and timetables for the performance of required activities, but only to the extent necessary to ensure that sufficient health care items and services are available to meet the needs of the individuals enrolled in the Medicare, Medicaid and State Children's Health Insurance Program (SCHIP), and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of these requirements, may be reimbursed and exempted from sanctions that might otherwise apply, absent any determination of fraud or abuse.

The waivers and modifications apply only to the health care providers and suppliers located in the “emergency area” (as defined in section 1135(g)(1) of the SSA) for which the Secretary has declared a public health emergency for an “emergency period,” and only to the extent that the provider in question has been affected by the disaster, or is treating evacuees.

For more detail, see the attached *Provider Survey and Certification – Declared Public Health Emergencies – All Hazards Frequently Asked Questions (FAQs)*, which includes a list of questions and answers that have been developed to provide guidance during a public health emergency declaration. These FAQs will be posted on the Survey and Certification Emergency Preparedness Website. Because of the need to use reasonable waiver discretion, only to the extent necessary, the specific answers to provider questions depends upon each unique circumstance. Health care providers should be sure to contact their State Survey Agency, who will contact their CMS Regional Office staff for specific answers to each provider question.

Websites

For more information regarding survey and certification emergency preparedness issues, including helpful resources and tools, please see that S&C Emergency Preparedness Website, which can be accessed at: <http://www.cms.hhs.gov/SurveyCertEmergPrep/>.

/s/

Thomas E. Hamilton

Attachment

- S&C Declared Public Health Emergency FAQs

cc: Survey and Certification Regional Office Management