

HHS declares public health emergency for LA, TX, MS and AL

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HHS Secretary Mike Leavitt declared a public health emergency yesterday to ensure that individuals, including those enrolled in Medicare, Medicaid and the State Children's Health Insurance Program (SCHIP), in Louisiana, Texas, Mississippi and Alabama continue to receive their health care items and services.

"Hurricane Gustav is quickly approaching the Gulf Coast and the actions we are taking should immediately help our beneficiaries and providers, as well as some of the area's most vulnerable patients, in communities where hospitals and other health care delivery systems are affected," said Secretary Leavitt. "These steps will allow beneficiaries to continue to receive their health care services when they leave their communities as encouraged by their local officials."

Given the potential impact of Hurricane Gustav on the health care of hundreds of thousands of affected beneficiaries in these states, Secretary Leavitt declared the public health emergency under section 319 of the Public Health Service Act, and, under section 1135 of the Social Security Act, waived or modified certain Medicare, Medicaid and SCHIP requirements. States can submit waiver requests through their Centers for Medicare and Medicaid Services (CMS) Regional Offices.

"HHS and CMS have the flexibility to take steps ensuring that vital health care services can be maintained for our beneficiaries," said CMS Acting Administrator Kerry Weems. "Many of the agency's normal operating procedures will be temporarily relaxed so health care services will continue to be provided to the elderly, people with disabilities and vulnerable children as they leave the areas affected by the hurricane."

CMS will take the following actions, among others, to ensure sufficient items and services are available to meet the need of Medicare, Medicaid and SCHIP beneficiaries. The agency will make certain that health care providers that provide items and services in good faith are exempt from sanctions for noncompliance with otherwise applicable requirement, provided there is no fraud or abuse.

CMS will waive certain program requirements for the following institutional providers:

- * Critical Access Hospitals: Allow these hospitals to take more than the statutorily mandated limit of 25 patients and not count the expected longer lengths of stay for evacuated patients against the 96-hour average;
- * Skilled Nursing Facilities: Waive the three-day prior hospitalization requirement for admission for evacuated patients and relax limitations on the benefit period for those evacuated patients;

- * Long-Term Care Hospitals: Not count the evacuated patients in determining compliance with the 25-day average length of stay requirement;
- * Inpatient Rehabilitation Facilities: Not count the evacuated patients in determining compliance with the 60 percent rule requirement. The 60 percent rule requires that at least 60 percent of a facility's patient population fall into certain clinical conditions.

CMS will expand the definition of "home" to allow those Medicare beneficiaries who are receiving home health services to receive those services in alternative sites.

For the Medicare Part D prescription drug benefit, CMS has been working with prescription drug plans to ensure that rules preventing early refills are waived. This will assist those beneficiaries who left their prescriptions in evacuated homes or lost their prescriptions when they had to leave their homes.

Beneficiaries in Medicare health plans will be able to go out of network during this emergency. CMS is working with the health insurance industry to ensure there are no barriers to this service for those enrolled in these plans.

CMS will work with affected State Survey Agencies and providers to temporarily adjust quality assurance enforcement actions where the immediacy of direct patient care needs due to Hurricane Gustav is appropriate.

End Stage Renal Disease Networks in the Gulf States have already initiated arrangements to ensure the continuation of dialysis and health services for end stage renal disease patients. Also, CMS will be working with the Federal Emergency Management Agency to manage lost, stolen, or abandoned durable medical equipment.

The Declaration may be accessed online. The Waiver may be accessed online.

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