

March 16, 2020

*Via electronic mail: [RODALDSC@cms.hhs.gov](mailto:RODALDSC@cms.hhs.gov)*

Re: Request for Waivers under Section 1135 of the Social Security Act related to COVID-19 Emergency

To Whom it May Concern:

As you are aware, 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 under Section 319 of the Public Health Service Act, the Secretary is authorized to take certain actions in addition to his regular authorities, including temporarily waiving or modifying certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) requirements under section 1135 of the Social Security Act to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in Social Security Act programs in the emergency area. On March 13, the Texas Hospital Association sent an initial waiver request. The conditions of requesting a Section 1135 waiver having been satisfied by President Trump's COVID-19 Emergency Declaration today and Secretary Azar's prior public health emergency declaration related to COVID- 19, on behalf of all Medicare-participating hospitals in Texas, the Texas Hospital Association requests the following additional waivers effective January 27, 2020, which have not yet been granted:

1. Waiver of the conditions of participation (COP) related to Standing Orders (SO) and Standing Delegated Orders (SDO).
2. Waiver of COPs related to doubling of single occupancy patient rooms.
3. Waiver of 42 C.F.R. § 482.22(a) so that physicians whose privileges will expire, and new physicians can practice before full medical staff/governing body review and approval.
4. Suspend all federal Medicare accreditation surveys for deemed status unrelated to infection control or COVI-19 (e.g. Joint Commission, Healthcare Facilities Accreditation Program, Center for Healthcare Improvement and DNVHC).
5. Suspend survey authority related to Compliance with the Americans with Disabilities Act and related rules and regulations. See 42 U.S.C. § 10801; 42 U.S.C. § 15043; and 42 U.S.C. § 794e.
6. Waive discharge planning requirements so that hospitals can discharge patients who no longer need acute care to post-acute providers that can accept them in an efficient manner to free beds for acutely ill patients. See 42 C.F.R. §§ 482.43(a)(8); 485.642(a)(8).

7. Waive 42 C.F.R. § 482.41 so non-hospital buildings/space can be used for patient care, provided sufficient safety and comfort is provided for patients and staff.
8. Permit home health agencies to temporarily perform initial assessments and determine patients' homebound status remotely or by record review. See 42 C.F.R. § 484.55(a).

Thank you for your consideration and your commitment to Americans during this national emergency. Should you have any questions, please do not hesitate to contact me at [cduncan@tha.org](mailto:cduncan@tha.org) or 512/465-1539.



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