

DECLARATION OF H1N1 NATIONAL EMERGENCY & REGULATORY WAIVERS

Two conditions must be present to provide the Secretary of the Department of Health and Human Services (HHS) with the authority to waive certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) regulatory requirements under Section 1135 of the Social Security Act, and recently both have conditions have been met. On April 26, Secretary Sebelius declared the 2009 H1N1 flu pandemic a public health emergency under Section 319 of the Public Health Services Act, and on October 24, President Obama declared H1N1 a national emergency under the National Emergencies Act.

According to HHS, "these [regulatory] requirements provide important protections for patients during normal day-to-day operations, but they may impede the ability of health care facilities to fully implement disaster operations plans that enable appropriate care during emergencies." Under Section 1135, he Secretary may temporarily waive or modify certain regulatory requirements as they apply to Medicare, Medicaid, or CHIP payments.

For waiver or modification requirements, visit:

http://www.flu.gov/professional/federal/h1n1_1135waiver_10272009.html

For information on HIPAA waivers, visit:

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/special/emergency/index.html>

For information on EMTALA waivers, visit:

http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCLetter10_05.pdf

Further information on the 1135 Waiver process can be found at: <http://www.cms.hhs.gov/H1N1>

The CDC stated in its weekly H1N1 call on November 10 (available for replay at www.flu.gov) that no waivers will be granted until there is an actual need, so advised against preemptive requests. It is also important to "cc" the NYSDOH if requesting a waiver so they can help ensure appropriate reimbursement regarding Medicaid payments during the waiver period.

BEING PREPARED FOR THE H1N1 PANDEMIC

Joint Commission Resources has a free on-demand education program entitled, "Being Prepared for the H1N1 Pandemic." It examines the actual events of North Shore-LIJ's successful response to a large influx of H1N1 patients this past spring, and correlates each step with the associated Elements of Performance in the Joint Commission standards. It also goes through the thought processes used by the organization to develop their alternate triage site. For more information and to view the program, visit

<http://www.jcrinc.com/Free-On-Demand-Program/>.

2009 H1N1 LEGAL PREPAREDNESS AND RESPONSE

In response to emerging legal issues concerning cases of H1N1 (swine flu) internationally, the Centers for Law & the Public's Health Centers personnel worked in real-time to track various legal updates related to declarations of emergency or public health emergency at the international, national, and regional levels, as well as provide information on key legal issues. For more information, visit

<http://www.publichealthlaw.net/Projects/swinefluphl.php>

FEMA ANNOUNCES PUBLIC OUTREACH EFFORTS FOR PS-PREP

FEMA announced today a series of public meetings that will be held to discuss the DHS Voluntary Private Sector Preparedness Accreditation and Certification Program (PS-Prep).

PS-Prep is a partnership between DHS and the private sector that will enable private entities—including businesses, non-profit organizations and universities—to receive emergency preparedness certification from a system DHS created in coordination with the private sector.

The purpose of these meetings is to provide the public with an opportunity to engage in dialogue with DHS staff and program managers regarding an October 16, 2009, Federal Register Notice (74 FR 53286) announcing DHS' intent to select three standards for adoption in the PS-Prep program. For more information visit: <http://www.fema.gov/news/newsrelease.fema?id=49867>