To: Hospital Administration  
From: Connie Melton MBA, FACHE  
        Section Chief  
Date: October 26, 2009

RE: President Obama declaration of emergency due to H1N1 and hospitals

The intent of this notice is to clarify for hospitals the impact of the Presidential declaration, and provide information related to EMTALA and Medicare Conditions of Participation.

Background and general information
On October 23, 2009, President Barack Obama declared a national emergency related to H1N1. This declaration delegates to the Secretary of Health and Human Services the authority to exercise authority under section 1135 of the SSA to temporarily waive or modify certain requirements of the Medicare, Medicaid, and State Children's Health Insurance programs. This declaration is one step in the required series of steps prior to any waiver of federal requirements such as Conditions of Participation or EMTALA.

- A federal waiver granted under Section 1135, will identify the specific geographic regions for which the waiver applies
- A federal waiver granted under Section 1135 will identify the specific federal regulation that is waived
- An effective date will be identified in the waiver.

Current
The Secretary of HHS has not issued any waiver pursuant to this declaration as of Monday Oct 26, 2009 12 noon. Presently, all EMTALA and Medicare Conditions of Participation apply

What can hospitals do now?
See CMS Fact Sheet item II (attached) for specific information regarding alternate screening sites and continued compliance with EMTALA.

**What does CMS need from hospitals to assess need for an 1135 waiver?**
To determine need, and geographic scope for an 1135 waiver, hospitals are advised to notify the State Agency of waiver requests.

**Send waiver request to**

**Health Facility Services, Arkansas Dept Health**

[Connie.melton@arkansas.gov](mailto:Connie.melton@arkansas.gov)

Fax 501-661-2165

Waver request must include:
- Facility Name, type of provider, provider/Certification number, city
- Specific requirement requested for waiver
- Justification for waiver
- Expected duration of need

Health Facility Services, will forward the information to CMS. CMS will compile and track all requests as the necessary data gathering for 1135 waiver recommendations.

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