

CLIENT ALERTS

CMS Waives Some Provider Rules to Provide More Access to Services

3.16.2020

With a declaration of a national emergency, the Centers for Medicare & Medicaid Services (CMS) can waive certain federal program requirements to help ensure that health care services are available as needed, and that providers can be reimbursed as appropriate and exempt from certain sanctions. In response to the emergency declaration due to the COVID-19 virus, on Friday, March 13, 2020, CMS announced some blanket waivers, as well as information on other possible available waivers that may be requested. Access the CMS fact sheet describing these efforts [here](#).

In summary, some of the key provisions of these waivers include:

- Waiving certain hospitalization requirements before skilled nursing facility (SNF) placement, to allow transfer to an SNF as needed, and to authorize renewed SNF benefit coverage.
- Waiving certain requirements for limiting beds and length of stay in critical access hospital and in long-term care hospitals (LTCH), as well as allowing hospitals to house acute-care inpatients in previously-excluded “distinct part units,” including more flexibility for use of rehab or psychiatric beds. These moves will allow hospitals to more easily move and treat patients as needed and use all available locations of beds.
- Allowing for quicker replacement of durable medical equipment lost, damaged, or unavailable due to the emergency.
- Waiving some provider enrollment requirements to allow providers licensed in one state to provide services in another, expediting some provider enrollments, and allowing for temporary Medicare billing privileges.
- Extending some appeal periods for providers in fee/payment disputes with CMS.

Related Services

Health Care

Health Care Industry Team

CLIENT ALERTS

In addition to these blanket waivers, CMS will entertain requests from states that ask for additional specific waivers under Medicare, Medicaid, and State Children's Health Insurance Programs (CHIP). These could include prior authorization requirements, some state-specific licensing rules, enrollment and revalidation requirements, or some pre-admission and assessment requirements for nursing home residents.

As states explore ways to deal with the situation there may be more state-specific requests for waivers or announcements of other temporary program changes that follow in the coming days.

There is more detail on these and other items in the CMS publications, and some of these may differ in application to Medicare, Medicaid, and CHIP, so additional review of CMS requirements may be needed in particular situations.

In a separate fact sheet, CMS also announced that it is suspending certain non-emergency state survey inspections of facilities. Inspectors will prioritize the most serious health and safety threats, including infectious disease issues, reports of abuse and neglect, and 'immediate jeopardy' matters. More detailed information is at <https://www.cms.gov/files/document/covid19survey-activity-suspension-faqs.pdf>.

For more information on CMS regulation and waiver matters, or other questions regarding these issues, please contact the Butzel Long Health Care Industry Team.

Mark R. Lezotte

313.225.7058
lezotte@butzel.com

Debra Geroux, CHC, CHPC

248.258.2603
geroux@butzel.com

Robert H. Schwartz

248.258.2611
schwartzrh@butzel.com