



OFFICE OF THE DIRECTOR

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March 15, 2020

To: Andy Van Pelt, Executive Vice President  
Oregon Association of Hospital and Health Systems

From: Patrick Allen, Director

RE: Submission and Implementation of 1135 Waiver for Oregon

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**Background:** The president has declared an emergency under the Stafford Act and the secretary of Health and Human Services has declared a public health emergency in response to the Coronavirus (COVID-19) pandemic. Waivers to §1135 of the Social Security Act are available to support the efforts of CMS certified health care facilities to provide services to meet the needs of Medicare, Medicaid and beneficiaries. Waivers provide exceptions to certain CMS requirements during the emergency.

**Waiver process:** The Oregon Health Authority is submitting a blanket waiver request to CMS on Monday, March 16, 2020 for Oregon's health system, including hospitals. This blanket waiver permits exceptions to the following requirements:

- Emergency Department (ED) Exception – Hospitals may move emergency patients to another location in the hospital and continue to bill for Type A ED charges.
- Medical Staff Exception – Hospitals may use an abbreviated process to privilege and credential out-of-state practitioners who are authorized or permitted by Oregon professional licensing agencies to practice in Oregon in the current emergency.
- EMTALA Exception 1 - Hospitals to set up temporary Alternative Care Sites (ACS) at off-campus locations to provide Medical Screening Examinations. ACS does not need to meet all Conditions of Participation but must meet local building codes.
- EMTALA Exception 2 - Hospitals may transfer patients that have not been stabilized if the transfer is necessary for the patient to receive appropriate care.
- CAH Exception 1 – CAHs may operate more than 25 beds.
- CAH Exception 2 – CAHs may treat COVID-19 patients for more than 96 hours if necessary.
- IPPS Exception 1 – Hospitals with IPPS units may use IPPS unit beds that are appropriate for acute care inpatients to house acute care inpatients. The IPPS would bill for the services and note in records that the patient is housed in the IPPS unit because of capacity issues related to the emergency.
- IPPS Exception 2 – Hospitals with IPPS Units may transfer psychiatric IPPS patients to acute care units and provide the necessary care while continuing to bill at the IPPS excluded rate where the acute care beds are appropriate for psychiatric care and the staff and environment are conducive to safe care.

Upon approval of the 1135 waiver, hospitals operating under this blanket waiver must contact OHA's Health Care Regulation & Quality Improvement [HCRQI mailbox](mailto:mailbox.hclc@state.or.us) (mailbox.hclc@state.or.us) to

- Confirm (yes/no) that they have implemented their hospital disaster protocol;
- Identify additional on-campus locations being used for ED services;
- Identify the location of any ACS;
- Confirm (yes/no) any ACS meets local building codes and
- Indicate which exceptions of the waiver they will be using.

Hospitals **do not need to receive a response from OHA** before they begin operating under the blanket waiver. Hospitals do not need to email the CMS Regional Office as OHA will handle that communication.

**Waiver timing:** Waivers typically last until the termination of the pandemic related public health emergency and we support hospitals taking all necessary actions immediately as we process our statewide waiver request

**Additional resources:**

- [CMS §1135 waiver page](#) including
  - [At-a-Glance description of §1135 waivers](#)
  - [Information about changes that can be made without a waiver](#)
  - [Information about changes that require a waiver.](#)
- [CMS Coronavirus page](#) including
  - [Guidance for Infection Control and Prevention Concerning Coronavirus Disease \(COVID-19\): FAQs and Considerations for Patient Triage, Placement and Hospital Discharge](#)
  - [Emergency Medical Treatment and Labor Act \(EMTALA\) Requirements and Implications Related to Coronavirus Disease 2019 \(COVID-19\)](#)
- [OHA Covid-19 website](#)

Please send questions regarding the blanket §1135 to Lori Coyner, Medicaid Director, [lori.a.coyner@state.or.us](mailto:lori.a.coyner@state.or.us) and for hospital specific questions the [HCRQI mailbox](mailto:mailbox.hclc@state.or.us). In addition, we are available for conference calls with facilities to discuss specific questions and provide technical assistance.