

150 – Benefits during Disasters and Catastrophic Events
(Rev. 121, Issued: 04-22-16, Effective: 04-22-16, Implementation: 04-22-16)

The Secretary of Health and Human Services (the Secretary) has the right to exercise his or her waiver authority under section 1135 of the Social Security Act if, in addition to a Presidential declaration of a disaster or emergency under the Stafford Act or National Emergencies Act, the Secretary declares a public health emergency under section 319 of the Public Health Service Act. If an 1135 waiver is issued, CMS will identify all plan requirements and responsibilities. Detailed guidance and requirements for MA plans under the section 1135 waiver, including timeframes associated with those requirements and responsibilities, will be posted on the Department of Health and Human Services website, (<http://www.hhs.gov/>) and the CMS website (<http://www.cms.hhs.gov/>). MAOs are expected to check these sites frequently during such disasters and emergencies.

Under the Secretary's section 1135 waiver authority, CMS may authorize DME and A/B MACs to pay for Part C-covered services furnished to enrollees and seek reimbursement from MAOs for those health care services, retrospectively.

In the event of a Presidential emergency declaration, a Presidential (major) disaster declaration, a declaration of emergency or disaster by a Governor, or an announcement of a public health emergency by the Secretary of Health and Human Services, but absent, or prior to the issuance of, a section 1135 waiver by the Secretary, MAOs must:

- Allow Part A and Part B and supplemental Part C plan benefits to be furnished at specified non-contracted facilities (note that Part A and Part B benefits must, per 42 CFR §422.204(b)(3), be furnished at Medicare certified facilities);*
- Waive in full, requirements for gatekeeper referrals where applicable;*

- *Temporarily reduce plan-approved out-of-network cost-sharing to in-network cost-sharing amounts; and*
- *Waive the 30-day notification requirement to enrollees as long as all the changes (such as reduction of cost-sharing and waiving authorization) benefit the enrollee.*

Typically, the source that declared the disaster will clarify when the disaster or emergency is over. If, however, the disaster or emergency timeframe has not been closed 30 days from the initial declaration, and if CMS has not indicated an end date to the disaster or emergency, plans should resume normal operations 30 days from the initial declaration. MAOs not able to resume normal operations after 30 days should notify CMS.

MAOs must disclose their policies about providing benefits during disasters on their plan websites.

If the President has declared a major disaster or the Secretary has declared a public health emergency, MAOs must follow the guidance in chapter 5 of the Prescription Drug Benefit Manual, regarding refills of Part D medications. The Prescription Drug Benefit Manual may be found at: http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/Pub100_18.pdf.