



**CALIFORNIA
HOSPITAL
ASSOCIATION**

*Providing Leadership in
Health Policy and Advocacy*

December 18, 2020

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 314-G
Washington, D.C. 20201

SUBJECT: CMS–10752; Submissions of 1135 Waiver Request Automated Process; Notice, Federal Register (Vol. 85, No. 204) October 21, 2020

Dear Administrator Verma:

On behalf of our more than 400 member hospitals and health systems, the California Hospital Association (CHA) appreciates the opportunity to provide comments on the Centers for Medicare & Medicaid Services' (CMS) notice of its intention to collect information from the public to establish an automated process for submitting 1135 waiver requests.

California's hospitals have significant experience providing care while being impacted by natural or man-made disasters — such as fires, floods, and earthquakes — as well as other public health emergencies (PHEs), such as the ongoing COVID-19 PHE. California's hospitals are a critical element within the disaster medical response system and work collaboratively with local government, other health care providers, and other agencies to plan, prepare for, and respond to the needs of their communities during these emergencies. Waivers under Section 1135 of the Social Security Act — which allow CMS to relax certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) requirements — are key to helping hospitals maintain operation in challenging circumstances, while being exempted from certain sanctions and reimbursed for the care they provide.

Prior to this request, CMS did not have a standard process for providers impacted by emergencies to submit 1135 waiver requests, as the agency generally received such requests on a smaller scale and on a case-by-case basis. In its supporting statement, CMS acknowledges that the COVID-19 PHE presented a new challenge, as the agency experienced an influx of COVID-19 PHE-related 1135 submissions. CMS also notes that it consulted with California's State Survey Agency in designing its waiver request web form and related instructions, as California is heavily impacted by emergencies and submits substantially more waiver requests than other states annually.

To better improve this process, CMS proposes to create a public facing web form to support nationwide submission of 1135 waiver requests and inquiries by collecting required information from impacted Medicare and Medicaid providers, health care associations, governors, and states. **CHA appreciates that CMS has proposed a more streamlined, automated waiver request process, and we support the creation of a public facing web form to facilitate the required data collection. We believe such a process will reduce the burden for hospitals that need to request 1135 waivers.**

In order to further reduce administrative burden, we urge CMS to clarify on the form that health systems can submit one request form for multiple facilities by allowing for the submission of multiple organization identification numbers – such as multiple CMS Certification numbers (CCNs) – for each impacted facility in their system. During a widespread disaster or public health emergency, submitting unique requests for each facility in a health system would be unnecessarily time consuming and divert staff resources away from disaster response.

CMS also proposes to create a second public-facing web form to support nationwide reporting about the operational status of health care providers and their beneficiaries impacted by emergencies and disasters. When a health care provider's normal operations are disrupted by emergencies or disasters, state survey agencies deliver a provider/beneficiary tracking report on the current status of all affected health care providers and their beneficiaries. This report includes demographic information about the provider, their operational status, beneficiary status, and planned resumption of normal operations. Under the current process, providers coordinate with their survey agencies to provide this information to CMS, and each state determines the format and media for providing the information. CMS proposes to modify this process by creating a public facing web form that will standardize submission of this information directly by the provider during emergencies and eliminating the need for the survey agency to provide it.

CHA recognizes the burden imposed on CMS under the current process, where there is no standardized process for survey agencies to report this information, which requires the agency to gather and organize it, standardize the format and media, and deliver it to the Office of the Administrator. However, we are concerned that requiring providers to report this information directly to CMS will result in duplicative data reporting requirements for California hospitals, at times when their resources are already stretched thin while they provide critically important care to their communities. California hospitals currently provide medical and health situation reports through the Medical Health Operational Area Coordinator Program, which provides hospitals with a single point of contact responsible for monitoring and ensuring adequate medical and health resources are in place during a local emergency. **CHA urges CMS to ensure that hospitals are not responding to multiple data requests during disasters or emergencies.**

CHA appreciates the opportunity to comment on this request. If you have any questions, please do not hesitate to contact me at mhoward@calhospital.org or (202) 488-3742.

Sincerely,

/s/

Megan Howard

Vice President, Federal Policy