

## ASPR TRACIE Technical Assistance Request

**Request Receipt Date (by ASPR TRACIE):** 16 July 2019

**Response Date:** 30 July 2019

**Type of TA Request:** Complex

### Request:

The requestor contacted ASPR TRACIE and asked if we could help identify requirements, processes, or current guidance documents related to the financial reimbursement of hospitals that have been evacuated and repatriated following a hurricane.

The requestor also provided the following additional scenario details:

- The event is a state- and federally-declared emergency.
- No Centers for Medicare & Medicaid (CMS) 1135 waiver.
- No mandatory evacuation issued by local officials.
- The facility loses back-up power source.
- The facility is privately owned.
- The facility uses an Emergency Medical Services (EMS) contract to evacuate patients and does not require state resources.
- The facility uses the same EMS contract to repatriate some of the evacuated patients back to the hospital after the power is restored.

### Response:

The ASPR TRACIE Team reached out to Subject Matter Experts at the CMS Quality, Safety & Oversight Group (QSOG) and HHS ASPR for a response related to the requestor's requirement-specific questions.

CMS provided the following response:

“CMS does not provide financial reimbursement for Medicare-participating facilities in order for the facilities to meet the Conditions for Participation (CoP). Under the Emergency Preparedness (EP) Final Rule, facilities are required to have an emergency preparedness program using an all-hazards approach which encompasses the facility's responsibility to ensure they have policies and procedures to manage their patient population during a disaster. More specifically, the hospital's policies and procedures must include 482.15(b)(3) Safe evacuation from the hospital, which includes consideration of care and treatment needs of evacuees; staff responsibilities; transportation; identification of evacuation location(s); and primary and alternate means of communication with external sources of assistance.

If the hospital has arrangements to use EMS through a contract, this would be the responsibility of the facility per the CoP. Responses to the specific details outlined by the requestor are provided as follows:

- State and federally declared emergency – The EP Rule requires a process for collaboration with state emergency officials.
- No CMS 1135 Waiver – We also recommend review of the 1135 Waiver Website: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/1135-Waivers.html>.
- No Mandatory Evacuation issued by local officials – The EP Rule requires an all-hazards approach, regardless if the facility needs to evacuate for an individual facility-based incident. Therefore, facilities must have an emergency preparedness program which ensures compliance with all elements, whether the emergency is facility-based or a community/statewide emergency.
- Facility loses back-up power source – The EP Rule requires alternate source power and emergency standby systems. In the event both are lost, the facility should use its policies and procedures to determine if evacuation is needed in order to protect the health and safety of patients.
- Facility is privately owned – If the facility is under a Provider Agreement and is certified by Medicare (has a CMS Certification Number) as they would be subject to meet the CoPs. If the privately-owned facility is not a Medicare-participating hospital, then they would not be subject to the requirements of the EP Rule.
- Facility uses EMS contract to evacuate patients and does not need state resources – There is still no CMS reimbursement/financial assistance as the EP Rule requires transfer agreements and safe evacuation.
- Facility uses same EMS contract to repatriate some of the evacuated patients after power is restored – Same as above. While the EP Rule does not address recovery functions, facilities would return their patients to their facilities unless they were properly discharged.”

In addition, HHS ASPR provided the following response:

“In a scenario in which there is a Federally-declared disaster in Louisiana, there is an incoming Category 3 or higher hurricane, and the state is requesting National EMS Contract support, a Resource Request Form (RRF) must be submitted to the Federal Emergency Management Agency (FEMA) and signed off by the state as this is Direct Federal Assistance (DFA), meaning the State must pay up to 25% of costs to assist with their evacuation AND the state requests Federal Patient Movement evacuation (also through RRF). **NOTE:** The National Disaster Medical System (NDMS) will be activated in this scenario through normal processes.

In this scenario, the state would also have to request Definitive Medical Care to be activated. This is usually a separate mission assignment from the large public health and medical assignment for tracking purposes and is also DFA. The Emergency Support Function-8 (ESF-8) desk will assist in submitting the RRF in as well.

With these funding mechanisms in place ASPR will activate the Definitive Care Reimbursement Contract. NDMS healthcare facilities that receive NDMS patients through Federal Patient Movement (individuals moved by Federal Patient Movement and tracked in Joint Patient Assessment and Tracking System [JPATS] only) will be reimbursed for allowable patient costs at 110%. For more information on Definitive Care

reimbursement, please review the following website:

<https://www.phe.gov/Preparedness/responders/ndms/definitive-care/Pages/default.aspx>.

NDMS and Federal Patient Movement can be requested under a public health emergency. Healthcare facilities that are not currently in NDMS may sign up at the time of receiving NDMS patients to receive reimbursement.

NDMS does not reimburse for the cost-share associated with state requests for assistance in patient movement or repatriation (i.e., the up to 25% costs of utilizing the National EMS Contract) or for regular movement of patients (i.e., utilizing EMS to move patients and not using state or federal resources). NDMS patients will be repatriated utilizing Definitive Care mission assignment funds.

Federal Patient Movement would not be utilized in a state-declared emergency, and therefore, no definitive care reimbursement would be put in place either. All other conditions do not apply to NDMS Federal Patient Movement and Definitive Care Reimbursement Program activation (i.e., no mandatory evacuation, facility losing power, facility being privately owned). However, the CMS 1135 waiver would be in place.”

If the requestor would like additional information, or has questions on Federal Patient Movement, the Definitive Medical Care program, or Case Management during disaster, please contact the [ASPR TRACIE Assistance Center](#) and we will set up a direct one-on-one conversation with one of the leaders within NDMS.

### **CMS-Specific Information:**

CMS published the [interpretive guidelines](#) and the State Operations Manual that addresses specific regulatory expectations. This is posted on their website (under the Downloads section): <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>.

ASPR TRACIE has developed and collected a number of resources that we encourage you to use and believe will help facilitate compliance, including the resources provided in this response. However, this does not substitute review of the final rule text and interpretive guidelines. If you have specific questions about your facility’s compliance please review the interpretive guidelines, or contact your state’s survey agency or the CMS QSOG at the following email address: [SCGEmergencyPrep@cms.hhs.gov](mailto:SCGEmergencyPrep@cms.hhs.gov).

CMS and ASPR TRACIE are partnering to provide technical assistance, and share resources and promising practices to help affected providers and suppliers start or update the documents mandated by the new Emergency Preparedness rule. Additional key resources include:

- The ASPR TRACIE dedicated CMS Rule page: <https://asprtracie.hhs.gov/cmsrule>
- The entire CMS Emergency Preparedness Rule: <https://federalregister.gov/a/2016-21404>
- The CMS Emergency Preparedness Survey and Certification Page: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>

- CMS has developed a [Quick Glance Table of the rule requirements by provider type](#), to highlight key points of the new Emergency Preparedness rule. **NOTE:** This table is not meant to be an exhaustive list of requirements nor should it serve as a substitute for the regulatory text.
- ASPR TRACIE developed a [CMS Emergency Preparedness \(EP\) Rule Resources at Your Fingertips Document](#). Within this document are links to key resources:
  - CMS' developed [frequently asked questions \(FAQ\) documents](#) that synthesizes answers to commonly asked inquiries about the CMS EP Rule.
  - The FAQs, in combination with the CMS [at-a-glance chart](#) and [Provider and Supplier Type Definitions Fact Sheet](#), can help planners identify and address planning gaps and facilitate compliance with the regulations.
  - Interested in learning more about your local healthcare coalition? [This chart](#) can help you identify the preparedness office of your state public health agency. Remember: the release of the CMS EP Rule provides healthcare coalitions a tremendous opportunity to strengthen relationships and leverage a broader group of personnel and resources to provide for the medical needs of the whole community during a disaster.
  - To review the Medicare Learning Network National Call on the EP Rule, you can access the PowerPoint [slides, transcript, and audio recording here](#).

## ASPR TRACIE-Specific Information:

The ASPR TRACIE Team would also like to provide the requestor with the following ASPR TRACIE resources, which may be helpful for this request:

- [Recovery Planning Topic Collection](#)
  - In particular, we would like to highlight the following resource:
    - U.S. Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response. (2018). [ASPR Healthcare System Recovery Guide: Hurricane Harvey](#). This document highlights common post-disaster recovery planning challenges for small and medium-sized healthcare facilities; shares strategies for short- and long-term recovery; and identifies support resources. Information is presented in four categories: financial and legal; operational planning; workforce; and training and testing. **NOTE:** The Financial and Legal Recovery Issues section begins on page 3 and provides links to several other resources, which may be helpful for this request.
- [Federal Recovery Programs for Healthcare Organizations Tip Sheet](#)
- [Healthcare System Recovery Timeline: A White Paper for Texas](#)
- [Health and Social Services Recovery Lessons Learned from the 2016 Louisiana Flooding Webinar](#)
  - **NOTE:** You can also access the webinar directly from this [link](#) by registering your name and email address.