

## ASPR TRACIE Technical Assistance Request

**Request Receipt Date (by ASPR TRACIE):** 5 August 2021

**Response Date:** 6 August 2021

**Type of TA Request:** Standard

### Request:

The requestor contacted ASPR TRACIE and had specific questions about the exercise requirements for an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) as it pertains to the Centers for Medicare & Medicaid Services (CMS) Emergency Preparedness (EP) Rule. The requestor noted the following requirements as defined by the CMS EP Rule:

Testing. The ICF/IID must conduct exercises to test the emergency plan at least twice per year. The ICF/IID must do the following:

(i) Participate in an annual full-scale exercise that is community-based; or

(A) When a community-based exercise is not accessible, conduct an annual individual, facility-based functional exercise; or

(B) If the ICF/IID experiences an actual natural or man-made emergency that requires activation of the emergency plan, the ICF/IID is exempt from engaging in its next required full-scale community-based or individual, facility-based functional exercise following the onset of the emergency event.

The requestor asked for clarification on the interpretation of these exercise requirements and noted that the COVID-19 public health emergency declaration is still in place. More specifically, the requestor asked if an ICF/IID is exempt from the exercise requirements this year (2021), or if they are still required to conduct two exercises.

### Response:

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

Please review the following CMS guidance related to exemptions based on activation of your emergency plan: <https://www.cms.gov/files/document/qso-20-41-all-revised-06212021.pdf>. In short, ICF/IIDs are required two exercises per year, one full-scale community based or individual facility-based exercise and one exercise of choice (tabletop, mock drill, etc.). Most providers activated their emergency preparedness plans due to COVID-19 in 2020; therefore, if the full-scale community-based exercise was not completed prior to activation of the emergency plan, this means the provider would be exempt from the full-scale requirement in 2020.

For the 2021 cycle as per the attached guidance, we state that we recognize that some providers may still be operating under their emergency operations plans based on COVID-19 and/or have re-activated their emergency plans based on an influx of cases, etc. Therefore, if you are currently operating under an emergency activation, you would be exempt from the full-scale requirement in 2021. However, the exercises of choice remain a requirement for both 2020 and 2021. While we do not specify what exact documentation is required to demonstrate activation of the emergency plans, we provide general guidance in the following document: <https://www.cms.gov/files/document/qso-20-41-all-revised-06212021.pdf>. This may be any staff communications/notices; policies and procedures specific to operating differently during the emergency including date of commencement; approved 1135 waivers; etc.

## CMS-Specific Information:

CMS published the [interpretive guidelines](#) and the State Operations Manual that addresses specific regulatory expectations.

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: [QSOG\\_EmergencyPrep@cms.hhs.gov](mailto:QSOG_EmergencyPrep@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 CMS EP 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>
- 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 CMS EP Rule, you can access the PowerPoint [slides](#), [transcript](#), and [audio recording here](#).