

ASPR TRACIE Technical Assistance Request

Request Receipt Date (by ASPR TRACIE): 10 September 2018

Response Date: 11 September 2018

Type of TA Request: Standard

Request:

The requestor asked if ASPR TRACIE could provide a summary and an example of what State surveyors should expect to find in a facility's emergency preparedness plan with regards to 1135 waivers.

Response:

The ASPR TRACIE Team conferred with an 1135 subject matter expert at the Centers for Medicare and Medicaid (CMS). ASPR TRACIE was provided with the response found in Section I below, which was provided to the requestor.

I. CMS Comments

Note: These are direct quotes or paraphrased from emails and other correspondence provided by ASPR TRACIE SME Cadre members in response to this specific request. They do not necessarily express the views of ASPR or ASPR TRACIE.

1135 waiver process is not specific to a particular provider type nor is there a form or template that is required to submit an 1135 waiver request. In response to your inquiry concerning the 1135 waiver process, two conditions must be met for the Secretary to be able to issue "1135 waivers": the Secretary must have declared a Public Health Emergency (PHE) **and** the President must have declared an emergency or major disaster either through a Stafford Act Declaration or National Emergencies Act Declaration. Once these conditions are met, any entity can request an 1135 waiver from CMS, including a state, an association or even an individual provider. Should your (specific provider) remain open or evacuate during a disaster or any other emergent event and find that you may need to request a waiver, I would like to emphasize that there is no standardized waiver application form or template that is required. However, CMS requests that an entity provide basic information about the facility, contact information, and a brief explanation of why a waiver is needed.

If you are considering updating your Emergency Operation Plan, or developing a policy specific to your operations, primarily, you should be able to demonstrate that the facility you provide oversight to has an awareness of the 1135 process and what may be required in the event of needing an 1135 waiver (which the provider would request through the state and regional office). For potential waiver requests during an applicable event, it is helpful to clearly state in any format you choose, information that will address the scope of the issue and the impact of the disaster including the following basic information:

- Provider Name/Type
- Full Address (including county/city/town/state) CCN (Medicare provider number).
- Contact person and his or her contact information for follow-up questions should the Region need additional clarification.
- Brief summary of why the waiver is needed. For example: CAH is sole community provider without reasonable transfer options at this point during the specified emergent event (e.g. flooding, tornado, fires, or flu outbreak). CAH needs a waiver to exceed its bed limit by X number of beds for Y days/weeks (be specific).
- Consideration – Type of relief you are seeking or regulatory requirements or regulatory reference that the requestor is seeking to be waived.

You may also find the information on the following websites helpful, www.cms.gov/emergency and www.phe.gov/emergency. Information on these sites contain examples of the most recently approved 1135 waivers. The HHS ASPR, Technical Resources, Assistance Center, and Information Exchange (TRACIE) link has various emergency preparedness checklists and action plans that may be of interest as well.

Additional information on 1135s is also located on our [CMS] website and on ASPR TRACIE:

- <https://www.cms.gov/About-CMS/Agency-Information/Emergency/EPRO/EPRO-Home.html>
- <https://asprtracie.hhs.gov/cmsrule>
- <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/1135-Waivers.html>
- <https://www.cms.gov/About-CMS/Agency-Information/Emergency/Downloads/Provider-Survey-and-Certification-Frequently-Asked-Questions.pdf>
- [https://www.cms.gov/About-CMS/Agency-Information/Emergency/downloads/Consolidated Medicare FFS Emergency QsAs.pdf](https://www.cms.gov/About-CMS/Agency-Information/Emergency/downloads/Consolidated_Medicare_FFS_Emergency_QsAs.pdf)
- <https://www.cms.gov/About-CMS/Agency-Information/Emergency/downloads/MedicareFFS-EmergencyQsAs1135Waiver.pdf>