

If, in addition to a Presidential declaration of a disaster or emergency under the Stafford Act or National Emergencies Act, the Secretary of Health and Human Services declares a public health emergency under section 319 of the Public Health Service Act, the Secretary has the right to exercise his or her waiver authority under section 1135 of the Social Security Act. If an 1135 waiver is issued, CMS will identify consequent requirements and responsibilities to the Health Plan.

Under the Secretary's section 1135 waiver authority, CMS may authorize Medicare Administrative Contractors to pay for Part C-covered services furnished to beneficiaries enrolled in the Health Plan and seek reimbursement from the Health Plan for those health care services, retrospectively.

PROCEDURE:

- A. In the event of a Presidential major disaster, emergency declaration, or public health emergency the Compliance Department will distribute notification to all business areas.
- B. The Compliance Department will monitor the Department of Health and Human Services (DHHS) website (<http://www.dhhs.gov>) and the CMS website (<http://www.cms.hhs.gov>) for additional guidance and requirements, including timeframes associated with those requirements during such disasters and emergencies.
- C. Plan will disclose policies about providing benefits during disasters on the Plan website.
- D. Each business area will ensure appropriate action is taken, in accordance with state and federal laws and related regulations.
- E. Access to Part C Provider Network: Typically, the source that declared the disaster will clarify when the disaster or emergency is over. If, however, the disaster or emergency time frame has not been closed 30 days from the initial declaration, and if CMS has not indicated an end date to the disaster or emergency, the Health Plan will resume normal operations 30 days from the initial declaration. If the Health Plan is unable to resume normal operations after 30 days, the Health Plan will notify CMS.
- F. Access under Part D: In the event of a Presidential major disaster, emergency declaration, or public health emergency in which the underlying circumstances are reasonably expected to result in a disruption in access to covered Part D drugs, the Health Plan will lift the "refill-too-soon" edits. The Health Plan may exercise some operational discretion as to how these edits are lifted during a disaster or emergency as long as access to Part D drugs is at the point-of-sale. For instance, the Health Plan may implement an edit that is readily resolvable at the point-of-sale through the use of a pharmacist override code.

The Health Plan will continue to lift edits until the termination of a public health emergency or the end of a declared disaster or emergency.

- In the case of a public health emergency, it terminates when it no longer exists or upon the expiration of the 90-day period beginning from the initial declaration, whichever occurs first.
- For major disasters declared by the President, the Health Plan will monitor FEMA's website, for the closure of disaster incident periods listed in the Disaster Federal Register Notice section (<https://www.fema.gov/disaster-responses>). In circumstances in which the incident period has not officially closed 30 days from the initial Presidential declaration, the Health Plan may consider extending the implementation of the edits but is not required to do so. If the Health Plan chooses to remove the edits, the Health Plan will work closely with enrollees who indicate that they are still displaced or otherwise impacted by the disaster or emergency.

In the absence of a Presidential major disaster or emergency declaration or a public health emergency, the Health Plan may consider lifting the edits, for instance, in advance of an impending disaster; if the Health Plan determines it appropriate to do so to ensure pharmacy access.

The Health Plan will ensure that enrollees have adequate access to covered Part D drugs dispensed at out-of-network pharmacies during any Federal disaster declaration or other public health emergency declaration in which enrollees are evacuated or otherwise displaced from their place of residence and cannot reasonably be expected to obtain covered Part D drugs at a network pharmacy.

Affected enrollees will be allowed to obtain the maximum extended day supply, if requested and available at the time of refill.