Medicaid and CHIP
MAC
Learning Collaboratives

Role of Medicaid and CHIP in Responding to Public Health Crises and Disasters

Monday, August 13, 2018

2:00 – 3:30 pm ET

Agenda

- Role of Medicaid/CHIP in Responding to Public Health Crises and Disasters
- Review of Disaster-Related Legal Authorities
- Responding to Specific Disaster-Related Problems
- States' Experiences from the Front Lines
- Putting It All Together: Disaster Preparedness Operational Checklists, Tips and Strategies
- Q & A

Role of Medicaid/CHIP in Responding to Public Health Crises and Disasters

Role of Medicaid/CHIP in Responding to Public Health Crises and Disasters

Medicaid/CHIP plays a critical role in helping states and Territories respond to major public health crises and natural disasters.

States can leverage Medicaid/CHIP in response to:

Hurricanes (e.g., Hurricanes Katrina, Maria, Harvey and Irma)

Wildfires (e.g., California wildfires)

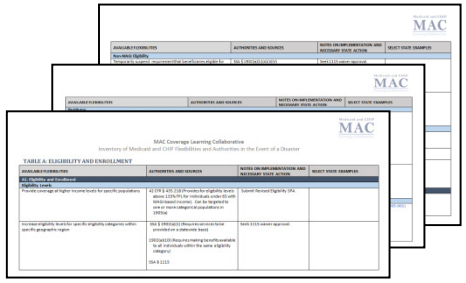
Flooding (e.g., Hurricane Harvey Floods in Texas)

Public health crises (e.g., Flint, Michigan lead contamination crisis)

CMS Disaster Preparedness Tools

The Medicaid and CHIP Coverage Learning Collaborative developed a set of tools to help states support Medicaid/CHIP operations and enrollees in times of crisis.

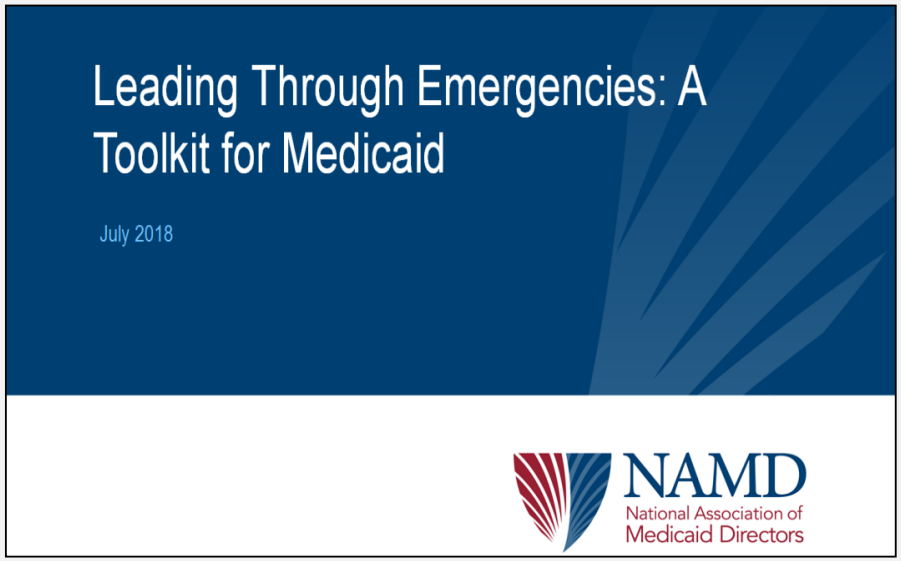
- ✓ **A memorandum providing a high-level summary of the types of Medicaid and CHIP strategies states and Territories can deploy**



- ✓ **A companion inventory that details the various strategies available to states and Territories and the action(s) needed to effectuate them**

National Association of Medicaid Directors' Disaster Toolkit

The National Association of Medicaid Directors (NAMD) created a disaster toolkit for states and Territories to leverage in response to public health crises and disasters.



- ✓ **Pre-, during and post-emergency checklists for state action**
- ✓ **List of top 5 tips and strategies for disaster response**

Review of Disaster-Related Legal Authorities

Medicaid/CHIP SPAs, Verification Plans and 1915(c) Waivers

Medicaid SPA

In response to a disaster, states and Territories may wish to modify Medicaid eligibility, enrollment, benefit and cost sharing requirements in the existing State Plan.

- SPAs can be retroactive to the first day of the quarter in which they are submitted to CMS.

CHIP Disaster Relief SPA

In advance of, or in response to, a disaster, states and Territories can document CHIP eligibility, enrollment and cost sharing provisions in the State Plan.

- States that add this information in advance of a disaster can activate it by alerting CMS.
- States that add it at the time of a disaster can put the provisions into effect upon the disaster and work with CMS to get approval retroactively, within CHIP regulations.

Verification Plan

States or Territories can modify their Medicaid/CHIP verification processes in response to a disaster by documenting those changes in their Verification Plan.

- These provisions would go into effect immediately. States submit an updated Verification plan; no CMS approval is required.

1915(c) Waiver Appendix K

States may submit Appendix K before emergencies to document necessary changes to waiver operations or submit Appendix K

- These provisions would go into effect in the event of a disaster.

Medicaid and CHIP Waivers

1902(e)(14) Waiver

Section 1902(e)(14) of the Social Security Act authorizes the Secretary to waive certain provisions of the Medicaid or CHIP statutes to ensure that states are able to establish income and eligibility determination systems that protect beneficiaries.

- These provisions would go into effect as of the date approved by CMS; retroactive implementation is allowable.

1115 Waiver

Under Section 1115 of the Social Security Act, the Secretary has broad, but not unlimited, authority to approve a state's or Territory's request to waive compliance with certain provisions of federal Medicaid law and authorize expenditures not otherwise permitted by law.

- A waiver may be granted for an "experimental, pilot or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives" of the Medicaid program.
- To receive a section 1115 demonstration, states must submit a demonstration request and agree on Special Terms and Conditions.
- States that have a federally declared disaster are deemed to meet budget neutrality. States may be exempt from the normal public notice process in emergent situations provided they meet 42 CFR § 431.416(g)(2).
- Disaster-related demonstrations can be retroactive to the date of the Secretary declared public health emergency

1135 Waiver Authority

1135 Waivers

Under Section 1135 of the Social Security Act, the Secretary has the authority to temporarily waive or modify certain Medicare, Medicaid and CHIP requirements to ensure that sufficient health care items and services are available to meet the needs of enrollees in an emergency area.

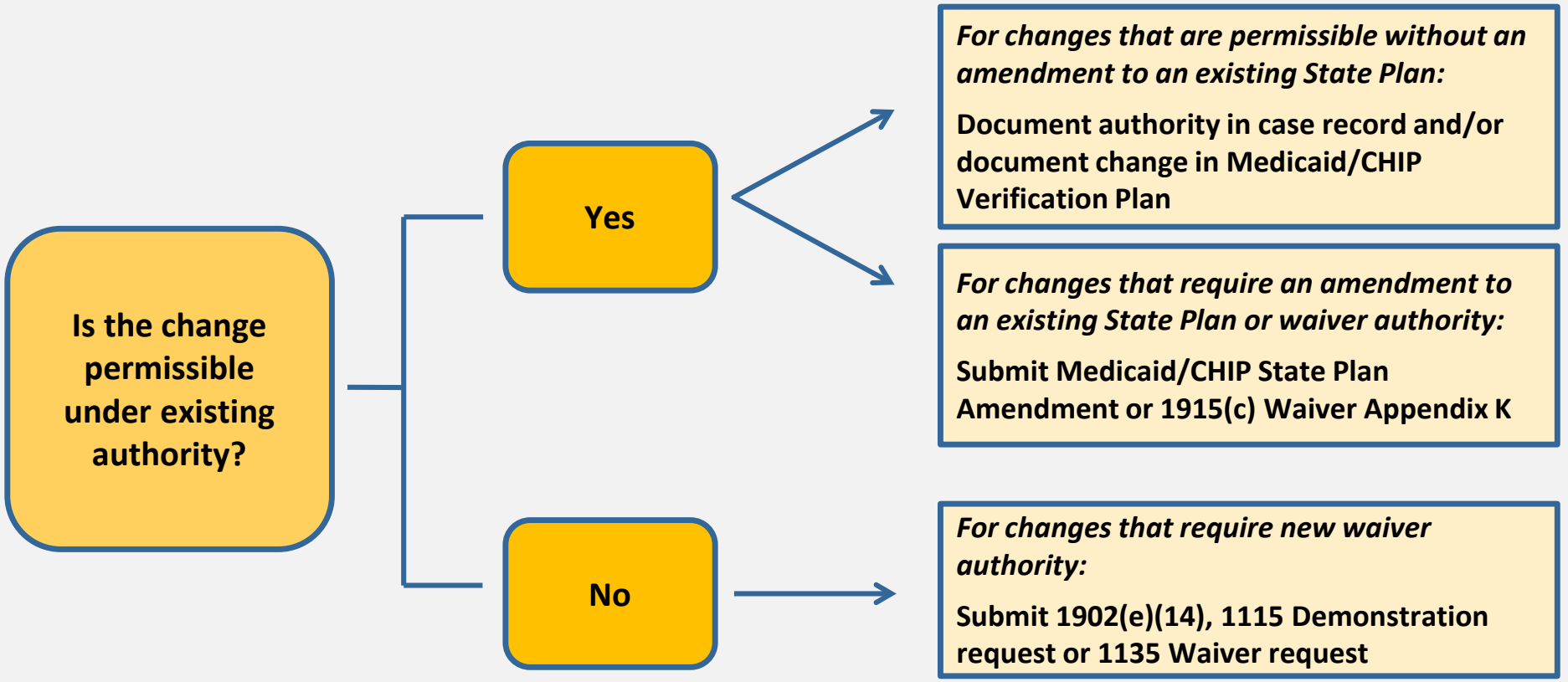
- The Secretary may invoke 1135 Waiver authority when a declaration of emergency or disaster under the National Emergencies Act or Stafford Act and a Public Health Emergency Declaration under section 319 of the Public Health Service Act have been declared.
- The authority enables providers to furnish needed items and services in good faith during times of disaster and be reimbursed and exempted from sanctions (absent any determination of fraud and abuse).
- 1135 Waivers typically end no later than the termination of the emergency period or 60 days from the date the waiver or modification is first published.

Examples of other 1135 waivers or modifications include:

- ✓ EMTALA sanctions for redirection of an individual to receive a medical screening examination in an alternative location pursuant to a state emergency preparedness plan
- ✓ Stark self-referral sanctions
- ✓ Performance deadlines and timetables may be adjusted (not waived)

Needed Legal Authorities to Effectuate Change

The type of legal authority that a state or Territory requests depends on the change that is needed.



Example Flexibilities that Do Not Require an Amendment to a State Plan or Verification Plan

42 CFR § 435.912

42 CFR § 435.912(2)(2) provides an exception to timeliness standards for applications and renewals in an emergency or under unusual circumstances beyond the agency's control.

- The state or Territory must document the reason for the delay in the individual's case record.
- The state or Territory is advised to consult with CMS regarding the wide scale application of the policy.

42 CFR § 435.952(c)

42 CFR § 435.952(c) requires states or Territories accept self-attestation when documentation is not available due to a disaster.

- This flexibility does not apply to verification of citizenship/immigration status (reasonable opportunity period applies).
- A state or Territory is not required to amend the Verification Plan.
- The State or Territory is advised to consult with CMS regarding the wide scale application of the policy.

Responding to Specific Disaster-Related Issues

Responding to Specific Disaster-Related Problems

- **Bolstering Eligibility and Enrollment Processes**
- **Ensuring Access to Needed Services: Benefits and Cost Sharing**
- **Securing the Provider Workforce**

Bolstering Eligibility and Enrollment Processes

When a disaster hits, a state Medicaid or CHIP agency's capacity to process applications and make eligibility determinations may become compromised.

- Loss of power and downed phone lines may disable eligibility and/or verification systems.
- State Medicaid/CHIP eligibility workers may experience their own personal hardships impacting their ability to travel to work.
- States may be unable to process redeterminations, risking loss of coverage for those whose redetermination deadline comes during a time when systems are down.
- Individuals displaced from their homes may not:
  - Have access to needed documents to verify their eligibility
  - Be able to receive mail/consumer notices

In recognition of these challenges, a number of strategies are available to support ongoing eligibility and enrollment during a disaster.

Select Eligibility and Enrollment Strategies

Streamline Eligibility Determinations and Redeterminations

- Leverage determinations from other means-tested programs, such as SNAP, for Medicaid eligibility determinations at application or redetermination *(Submit 1902(e)(14)(A) request or SNAP SPA)*
- Adopt presumptive eligibility for eligible populations *(42 CFR § 435 Subpart L; 42 CFR § 457.355; Submit Presumptive Eligibility SPA)*
- Extend redetermination timelines for current enrollees subject to a disaster to maintain continuity of coverage *(42 CFR § 435.912(e)(2); 42 CFR § 457.340(d)(1); No Medicaid SPA needed; Document in case record; Submit CHIP Disaster SPA)*

Enable Flexibilities with Verification

- Allow self-attestation for all eligibility criteria (excluding citizenship and immigration status) on a case-by-case basis for individuals subject to a disaster when documentation is not available *(42 CFR § 435.952(c)(3)); 42 CFR § 457.380; No SPA needed; Document in case record)*
- Modify Medicaid/CHIP verification processes (e.g., accept self-attestation, adopt or increase reasonable compatibility thresholds) *(42 CFR § 435.945(a); 42 CFR § 435.952, 42 CFR § 457.380; Update Verification Plan)*

Select Eligibility and Enrollment Strategies (cont'd)

Address Residency for Displaced Individuals

- Consider Medicaid/CHIP enrollees who are evacuated from the state as "temporarily absent" when assessing residency in order to maintain enrollment in the home state *(42 CFR § 435.403(j)(3); 42 CFR § 457.320(e); 42 CFR § 431.52; 42 CFR § 457.320; No SPA needed; Document in case record)*

Expand Coverage

- Increase eligibility levels for specific categories within specific geographic regions *(Submit 1115 Waiver Request)*

Broaden Opportunities to Access Home and Community Based Services

- Modify 1915(c) enrollee targeting criteria in order to service additional individuals in the waiver *(Submit 1915(c) Appendix K)*

Select Eligibility and Enrollment Strategies (cont'd)

Adjust Fair Hearing Processes

- Suspend adverse actions for individuals in a disaster area for whom the state or Territory has completed a determination but has not yet sent a notice (e.g., due to inability to deliver mail) or for whom the state or Territory believes likely did not receive the notice (e.g., due to evacuation) *(42 CFR § 431.211; No SPA Needed; Document in case record)*
- Allow enrollees to have more than 120 days (in the case of a managed care appeal) or 90 days (in the case of an eligibility or fee-for-service appeal) to request a fair hearing *(Submit 1135 Waiver Request)*

Select Eligibility and Enrollment State Examples

In August 2016, floods impaired **Louisiana's** eligibility and enrollment systems. The State requested a **1902(e)(14) Waiver** to enroll non-elderly, non-disabled SNAP participants in Medicaid without conducting a separate Modified Adjusted Gross Income determination.

In 2017, Hurricane Harvey flooded parts of **Texas.** The State submitted a **CHIP State Plan Amendment** that allowed the State to waive premium balances and maintain access to services beyond the end of redetermination periods for CHIP enrollees Statewide.

Ensuring Access to Needed Services: Benefits and Cost Sharing

The damage to infrastructure caused by large-scale disasters often creates new health care needs for Medicaid/CHIP enrollees.

- Poor access to clean drinking water is associated with increased health risks, as is living or working in damaged structures.
- Lack of electrical power can exacerbate chronic health conditions, particularly in tropical climates and particularly for the elderly and disabled.
- Enrollees may struggle to pay co-payments or CHIP premiums during times of crisis.

Select Benefits and Cost Sharing Strategies

Expand Benefit Package

- Offer additional optional benefits not currently provided under the State Plan or Alternative Benefit Plan *(SSA § 1902; Submit SPA or Alternative Benefit Plan)*
- Provide benefits to a targeted group of enrollees impacted by a disaster *(Submit 1115 Waiver)*
- Add services to a 1915(c) Waiver to address the emergency situation that are necessary to assist a waiver participant to avoid institutionalization and live in the community *(Submit 1915(c) Appendix K)*

Streamline Medicaid Authorization Process

- Waive service prior authorization requirements in fee-for-service or managed care *(Submit 1135 Waiver; Amend Medicaid managed care contract)*

Reduce Financial Pressures for Individuals Affected by Disaster

- Temporarily modify requirements for co-payments to support access to services for Medicaid or CHIP enrollees *(Submit Medicaid Cost Sharing SPA for statewide changes; Submit 1115 Waiver for Medicaid beneficiaries in disaster-specific areas; Submit CHIP SPA for either statewide or disaster-affected individuals)*
- Exempt individuals subject to a disaster from payment of premiums to support access to services for Medicaid/CHIP *(42 CFR 447.55(b)(4), 42 CFR 457.510; No Medicaid SPA needed; Submit CHIP SPA)*

Select State Benefits and Cost Sharing Examples

Following the 2017 wildfires in **California**, the State used an **1135 Waiver** to waive or modify prior authorization requirements for State Plan and Waiver services, which included extending existing prior authorizations or allowing beneficiaries to access services without prior authorization.

Texas used an **1135 Waiver** to require managed care organizations to extend existing prior authorizations for at least 90 days, and up to 180 days up to the last day of the emergency period for plan members living in a FEMA-declared disaster county.

Securing the Provider Workforce

Despite increased need, services can be difficult to access during a disaster.

- Provider facilities may be damaged, evacuated or otherwise inaccessible.
- Health care provider staff may experience their own hardships making them unavailable to provide care to enrollees.

Select Provider Workforce Strategies

Establish Flexibilities in Provider Enrollment, Licensing and Service Provision

- Temporarily waive provider screening requirements (e.g., payment of application fees, criminal background checks and site visits) to ensure a sufficient number of providers are available to serve Medicaid enrollees *(Submit 1135 Waiver)*
- Temporarily cease the revalidation of providers who are located in-state or otherwise directly impacted by the disaster *(Submit 1135 Waiver)*
- Temporarily waive requirements that out-of-state providers be licensed in the state or Territory in which they are providing services when they are licensed by another state Medicaid agency or by Medicare *(Submit 1135 Waiver)*
- Allow facilities to provide services in alternative settings, such as a temporary shelter, when a provider's facility is inaccessible *(Submit 1135 Waiver)*

Ensure Sufficient Reimbursement

- Temporarily increase or modify payment rates for 1915(c) Waiver services with no impact on cost neutrality (*Submit 1915(c) Appendix K)*

Select State Provider Workforce Examples

After emergencies were declared in **California** in response to 2017 wildfires and in **Florida** in response to Hurricane Irma, both states used **1135 Waiver** authority to waive provider screening requirements to enroll new Medicaid providers provisionally and temporarily, including payment of application fee, criminal background checks, site visits and in-state or Territory licensure requirements.

States' Experiences from the Front Lines

Texas: A Closer Look

In August 2017 and in response to Hurricane Harvey, the federal government issued a Public Health Emergency and Major Disaster Declaration. The State received the following Medicaid/CHIP coverage-related flexibilities under an 1135 Waiver and its CHIP SPA:

- **1135 Waiver:**
  - ✓ Provisionally enroll providers by waiving application fee, criminal background checks, site visits and in-state licensure requirements
  - ✓ Waive Critical Access Hospital limit of beds to 25 and length of stay to 96 hours
  - ✓ Waive 3-day prior hospitalization requirement for coverage of skilled nursing facility stay
- **CHIP State Plan Amendment:** Texas submitted a CHIP SPA that
  - ✓ Allowed enrollees to receive services beyond their redetermination period
  - ✓ Waived premium balances
  - ✓ Created flexibilities in its verification processes

Florida: A Closer Look

In August 2017 and in response to Hurricane Irma, the federal government issued a Public Health Emergency and Major Disaster Declaration. The State received the following Medicaid coverage-related flexibilities under an 1135 Waiver:

- ✓ Allow hospitals to treat medical/surgical patients in alternative settings
- ✓ Provisionally enroll providers by waiving application fee, criminal background checks, site visits and in-state licensure requirements
- ✓ Waive Critical Access Hospital limit of beds to 25 and length of stay to 96 hours
- ✓ Waive 3-day prior hospitalization requirement for coverage of skilled nursing facility stay

Florida also temporarily delayed scheduling Medicaid fair hearings and issuing fair hearing decisions.

Putting It All Together: Disaster Preparedness Operational Checklists, Tips and Strategies

Leading Through Emergencies: A Toolkit for Medicaid

July 2018

NAMD
National Association of Medicaid Directors

Disaster / Emergency Preparedness Checklist

Pre-Emergency

- ❑ Establish early and frequent communications with CMS (central and regional offices) to prepare for emergency and to work together pre-, during, and post-emergency
- ❑ Identify flexibilities that do not need additional authority to implement, whether state or federal, and create a template with the citation that needs to be waived (for example: federal or state regulations, statutes, managed care contract, federal waivers, state provider manual, or other state policy guidance) and the authority to waive it (for example: HHS, the governor, or the state's Medicaid Director) for each flexibility; be clear about members and providers included in flexibility and timeline of flexibility
- ❑ Add available flexibilities to State Plan Amendment (SPA); be clear about members and providers included in flexibility and timeline of flexibility
- ❑ Add available flexibilities and communication plan to managed care contracts and fee-for-service (FFS) provider contracts, be clear about members and providers included in flexibility and timeline of flexibility
- ❑ Identify potential flexibilities for Section 1915(c) Appendix K, Section 1115, or Section 1135 waiver, be clear about members and providers included in flexibility and timeline of flexibility
- ❑ Create authority to extend billing deadline requirements
- ❑ Create template for notices to send to plans and providers across all delivery systems
- ❑ Develop emergency plan that includes clear descriptions of what divisions or units are responsible for different processes during non-emergencies – including staff contact details – and provide training on the plan during non-emergencies.
  - ❑ Clearly communicate the degree of latitude different levels of staff have to make decisions as part of the plan during an emergency.
- ❑ Discuss emergency plan with professional associations, FQHCs, and university-based systems
- ❑ Develop plan for addressing high-risk member needs
- ❑ Ensure agency staff have resources for remote work during and post-emergency and are aware of agency remote work policies

Disaster / Emergency Preparedness Checklist

During Emergency

- ❑ Submit Section 1135 waiver (after Public Health Emergency declared)
- ❑ Submit Section 1915(c) waiver requests through an Appendix K, Section 1115 requests, and any state-level requests as necessary
- ❑ Daily calls with managed care plans
- ❑ Monitor vulnerable populations
- ❑ Implement staffing plan if Medicaid offices closed (including working remotely)
- ❑ Reroute call centers (if needed)
- ❑ Update website with information for plans and providers
- ❑ Coordinate with other governmental agencies (i.e. licensing entities, local government) to ensure on same page and messaging is consistent
- ❑ Create tracking document of issues raised, how addressed, and final decision reached

Post-Emergency

- ❑ Continue flexibilities for a defined window of time
- ❑ Create tracking document of issues raised, how addressed, final decision reached
- ❑ Review actions taken pre- and during emergency for effectiveness and inefficiencies
- ❑ Update communications and other templates (if needed) based on recent experience
- ❑ Check-in with staff about how they are coping with the stress of the emergency experience
  - ❑ If available, dedicate resources to supporting staff mental health and wellness

Pre-Emergency Checklist Details

Develop plan for addressing high-risk member needs

- ❑ Utilize managed care plans or FFS care coordinators to do home visits to high-risk patients to ensure that they are adequately sheltered and to provide back-up equipment and/or caretaker training if equipment fails
  - ❑ High-risk pregnancies
  - ❑ Dialysis patients
  - ❑ Hemophiliacs
  - ❑ Medically frail
  - ❑ Long-term care population, including vent-dependent individuals living at home
- ❑ Provide additional medications to ensure supply during and post-emergency
- ❑ Arrange for access to NEMT for evacuation if unable to safely shelter in place

Create template for notices to send to plans and providers across all delivery systems

- ❑ Finalize language for notices around plan changes in effect during emergency
- ❑ Post notices to state Medicaid agency website
- ❑ Post beneficiary and provider communications to Medicaid agency website
- ❑ Distribute notices to enrolled providers via email or other mechanism

Ensure agency staff have resources for remote work during and post-emergency

- ❑ Establish policies around staff flexibilities and expectations for during and post-emergency
  - ❑ Allow remote work?
  - ❑ Utilizing /requesting time-off
- ❑ Provide the necessary equipment for staff to work remotely if allowable under state policy
  - ❑ Laptops with access to agency files
  - ❑ Cell phones
  - ❑ Back-up battery power source

During Emergency Checklist Details

Submit Section 1135 waiver (after Public Health Emergency declared)

- ❑ At the request of the Governor of an affected State, the President may, under the authority of the Robert T. Stafford Disaster Relief and Emergency Act, declare a major disaster or emergency. If a Presidential declaration occurs, the HHS Secretary may, under section 319 of the Public Health Service Act, declare that a Public Health Emergency (PHE) exists in the affected State. Section 1135 authorizes Secretary to waive certain requirements of the Social Security Act.
  - ❑ Continue to work with CMS to identify recently approved flexibilities to ensure that the state is requesting items that can be waived
  - ❑ Note end-date to waiver, and request for additional flexibilities to continue for a period of time post-emergency

Monitor vulnerable populations

- ❑ Continue to check-in on high-risk patients (via phone or in-person visits, if possible) and ensure that they are sheltering safely
  - ❑ High-risk pregnancies
  - ❑ Dialysis patients
  - ❑ Hemophiliacs
  - ❑ Long-term care patients
  - ❑ Medically frail
- ❑ If safe to do so, arrange for NEMT to evacuate if needed

Reroute Member Call Centers (if needed)

- ❑ Implement plan for member call centers to remain active and open during emergency to answer calls and questions
  - ❑ If state has national managed care plans, utilize other call center locations out-of-state
  - ❑ If state has local managed care plans, work with them to identify affiliates to host call center during emergency
  - ❑ Train call center staff to triage calls and only answer emergency-related queries

Post-Emergency Checklist Details

Create tracking document of issues raised, how addressed, final decision reached	**Review actions taken pre- and during emergency for effectiveness and inefficiencies**	**Update communications and other templates (if needed) based on recent experience**
❑ Review issues that arose during emergency and identify: ❑ Whether additional authority was needed (if so, what type?) ❑ Whether that flexibility could be added to state plan ❑ Which department or team is in charge of that issue/policy area	❑ Critically review decisions and actions taken pre- and during emergency to identify which ones worked efficiently and which ones need improvements ❑ Update planning to include new protocols based on recent experience ❑ Archive lessons learned and new protocol in easily accessible locations, both virtually and in hard copy	❑ Based on recent experience, make edits to templates for notices to managed care plans, providers, or other groups for clarity ❑ Update modalities of communication if some were more successful than others

Top Five Emergency Tips and Strategies

- **Utilize your managed care plans and other delivery system partners strategically**
  - If necessary, use peer- and public-pressure to encourage cooperation across all plans
  - Establish processes for receiving information from managed care plans daily, including for reports on high-risk members. Have reporting structures established and communicated in pre-emergency phase.
  - Have the plans conduct home visits of high-risk populations to ensure they are sheltering safely, have adequate back-up supplies to last several days post-emergency, train caretakers in how to manage conditions and supplies and to manually operate equipment in case of power failure

- **Incorporate as many flexibilities as possible into state plan, managed care contracts, and – if allowable – into Section 1915(c) and Section 1115 waivers in advance of emergency**
  - This allows the state to more seamlessly transition into implementation without needing to request flexibilities immediately pre-emergency

Top Five Emergency Tips and Strategies (continued)

- **During and post-emergency, create a comprehensive tracking document of the issues that arose, the flexibilities that were needed to address the issues, the related authority, and the final decision on the request for flexibility**
  - Identify issues where new authority was needed and those where it was not
  - List the department and team in charge of each issue area so that the correct people are consulted about decisions and strategies on the appropriate issue

- **Engage directly with CMS central office**
  - They have a national understanding of recent emergency conversations and waiver approvals

- **Archive earlier versions of disaster documents and reports, waivers, etc so that during the emergency that information is readily accessible (assume that the people who were around during earlier emergencies are no longer with the agency)**
  - Create clear decision tree protocols, identifying who the final decision maker is in each instance and delegating complete authority to that person when needed

Questions & Answers

Post-Disaster Contact Information

CMS has designated **Jackie Glaze**, Senior Policy Advisor, as the point of contact for state Medicaid agencies during a disaster. States and Territories are also encouraged to make contact with their local Regional Offices.

She will respond to and coordinate state and Territory inquiries and flexibility requests on behalf of the Center for Medicaid and CHIP Services (CMCS) and the Consortium for Medicaid and Children's Health Operations.

Jackie Glaze can be reached at 312-353-3653 or Jackie.Glaze@cms.hhs.gov.

Acknowledgements

Thank you for providing your time and valuable information:

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