



## 1135 Waiver Guidance

The IHCA has noticed an increase in tags in Life Safety Survey's for failure to have an 1135 Waiver Policy and has also received requests from the Fire Marshall to provide guidance on this topic. The IHCA has developed this 1135 Waiver guidance and a sample policy for member use.

### What is an 1135 Waiver?

An 1135 waiver ensures that health care items/services are available in the event of an emergency or disaster and allows health care providers to be reimbursed for providing these services. An 1135 Waiver allows for reimbursement during an emergency or disaster even if a facility cannot comply with certain requirements that would normally bar payment by Medicare or Medicaid due to the disaster or emergency. An 1135 Waiver does not provide financial reimbursement to facilities for services that wouldn't otherwise be covered or to individuals who are not otherwise eligible for Medicare.

### When would an 1135 Waiver be used?

An 1135 Waiver would be used during certain emergencies or disasters declared by the President and the HHS Secretary. An 1135 Waiver can only be granted if the President has declared a disaster/emergency under the Stafford Act or the National Emergencies Act and the HHS Secretary has declared a public health emergency under section 319 of the Public Health Service Act.

### What requirements can be waived under an 1135 Waiver?

An 1135 waiver can be requested for a number of things for example:

- Waive certain conditions of participation such as three-day prior hospitalization rule
- Certain HIPAA privacy regulations

## How long does an 1135 Waiver last?

1135 waivers are by their nature intended to be limited. They end either 60 days from the date of the waiver (unless extended by HHS) or the termination of the emergency period.

## Why do I need an 1135 Waiver Policy?

E-0026 requires that facilities demonstrate, in writing, knowledge of how to request an 1135 waiver and if one was granted how they would operate under the waiver. This is in coordination with your emergency preparedness planning.

## Additional Resources

- Per CMS, all facilities should have immediate access to or download the CMS 1135 Waiver Website at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/1135-Waivers>
- <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/PHE-Questions-and-Answers.pdf>
- <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/1135-Waivers-At-A-Glance.pdf>

## What if I still have questions?

IHCA is happy to help with additional questions. Contact Krissa Mason, VP of Regulatory and Legal Affairs at [krissa@iowahealthcare.org](mailto:krissa@iowahealthcare.org) or call (515) 978-2204.