STATEMENT OF

DEPARTMENT OF HEALTH & HUMAN SERVICES • USA

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ON

EXAMINING HHS'S PUBLIC HEALTH PREPAREDNESS FOR AND RESPONSE TO THE 2017 HURRICANE SEASON

BEFORE THE

U. S. HOUSE ENERGY AND COMMERCE COMMITTEE,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

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U. S. House Energy and Commerce Committee,
Subcommittee on Oversight and Investigations
Hurricane Response
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Chairman Griffith, Ranking Member DeGette, and members of the Subcommittee, thank you for the invitation and the opportunity to discuss efforts at the Centers for Medicare & Medicaid Services (CMS) to respond to and prepare for emergencies and natural disasters, including Hurricanes Harvey, Irma, Maria, and Nate. The Department of Health and Human Services (HHS) plays a significant role in emergency recovery and response efforts, and CMS is an important contributor in this work. In the weeks following these devastating storms, CMS has worked tirelessly to anticipate and respond to the needs of the millions of Medicare, Medicaid, and CHIP beneficiaries who have been impacted by these disastrous events. Our job is to make sure that the people served by our programs, in conjunction with the states and territories, continue to receive high quality healthcare even in the face of serious natural disasters.

CMS Emergency Response Efforts

Following a natural disaster, CMS works diligently across the agency to provide immediate relief to those impacted and to ensure those served by CMS programs have access to the life-saving treatments they need. Our approach to disaster preparedness and response has been informed by CMS's experience responding to Hurricane Katrina and the recent significant disasters. Each hurricane presented unique challenges—the flood water in Houston, the wind damage across Florida, and the combination of the two in Puerto Rico. The facts on the ground dictated a unique approach before, during, and after each storm, and our lessons learned helped us tailor our responses accordingly. For example, the devastation of Hurricane Harvey taught us valuable lessons that allowed us to respond even more quickly for Hurricanes Irma, Maria, and Nate. While we worked with states to assess need and grant waivers immediately following Hurricane Harvey, we worked with states and facilities to assess needs and prepare waivers while Hurricane Irma was still underway, and before the onset of Hurricanes Maria and Nate. In the weeks and months following these devastating storms, we continue to be proactive and monitor the needs of the local governments to make sure providers, suppliers, and hospitals and other healthcare facilities can continue to provide care.

Giving Beneficiaries, Providers, and Suppliers Flexibility to Meet Emergency Health Needs

Federal statute allows, at the request of the Governor of an affected State, the President to declare a major disaster or emergency if an event is beyond the combined response capabilities of the State and affected local governments. Federal law also allows the Secretary of Health and Human Services (HHS) to declare that a Public Health Emergency exists in the affected State, and authorize waiver or modification of certain Medicare, Medicaid, CHIP, and EMTALA requirements under section 1135 of the Social Security Act. The HHS Secretary (or Acting Secretary) declared a Public Health Emergency and Section 1135 waiver determination in the areas impacted by Hurricanes Harvey (August 26), Irma (September 8), Maria (September 19), and Nate (October 8) almost immediately upon receiving information regarding the levels of devastation being caused by these storms.

With a public health emergency and a Presidential declaration in effect, there are many things we can do to help. For example, the Section 1135 waiver determination enables CMS to waive or modify certain Medicare, Medicaid, CHIP, Stark Law, and EMTALA requirements, including certain deadlines, quality reporting requirements, conditions of participation, and certification requirements. Providers can now submit waiver requests to the state survey agency or the CMS regional office,[1] and they will be evaluated to ensure that they meet the requirements set out under the law. CMS made all approved waivers and hurricane related information, such as Frequently Asked Questions and Presidential declarations, available on our website.[2]

In each of these emergency events, CMS is using the full breadth of our waiver authority to maintain access to care for Medicare and Medicaid beneficiaries by supporting the ability of providers, suppliers, hospitals, and other healthcare facilities that participate in those programs to provide timely care to as many people impacted by the storm as possible. For example, using our waiver authority, CMS:

[1] https://www.cms.gov/About-CMS/Agency-Information/Emergency/Downloads/Requesting-an-1135-Waiver-Updated-11-16-2016.pdf
[2] https://www.cms.gov/About-CMS/Agency-Information/Emergency/Hurricanes.html

- Gave Medicare providers in locations impacted by the hurricanes the flexibility to move patients between facilities, administer care in alternative locations, and approve out-of-network providers as needed to ensure continuity of care.

- Expedited Medicaid enrollment for out-of-state providers. This means providers can be reimbursed for services provided to beneficiaries who have been evacuated from locations impacted by the hurricanes, and allows reimbursement to providers who go into impacted areas to provide relief.

- Lifted the moratoria on non-emergency ambulance suppliers in Texas, to reduce potential access to care concerns.

- Allowed impacted Critical Access Hospitals to exceed their limits on the number of beds (25) and the length of stay (96 hours). This means, for example, a Critical Access Hospital would be reimbursed for services provided to a beneficiary who needed care that was expected to require more than a 96-hour stay.

- Allowed Medicare payments for replacement Part B prescriptions in circumstances where dispensed medication has been lost or otherwise rendered unusable by damage due to the emergency.

- Required Medicare Part D plans to suspend some of their utilization controls, such as prohibiting prescriptions from being refilled too soon, for beneficiaries who evacuated their homes without their prescription medications.

- Established a hotline to assist healthcare providers in Texas, Florida, Louisiana, Puerto Rico, and the U.S. Virgin Islands in receiving temporary Medicare billing privileges, making sure providers will be appropriately reimbursed for their critical services.

- Coordinated with local emergency response and public health officials and organizations to provide beneficiary access to life-saving services by temporarily designating dialysis facilities licensed in locations impacted by the hurricanes, but not yet certified to provide care for Medicare beneficiaries, as Special Purpose Renal Dialysis Facilities so they could serve as Medicare dialysis facilities for a limited period of time.

- Temporarily suspended certain requirements necessary for Medicare beneficiaries who lost or realized damage to their durable medical equipment, prosthetics, orthotics, and supplies as a result of a hurricane. This is helping make sure that beneficiaries can continue to access the needed medical equipment and supplies they rely on each day.

- Expedited Texas's request to allow officials to adjust CHIP enrollment, redetermination policies and cost-sharing requirements for families living in, or evacuated from, areas impacted by Hurricane Harvey. For example, these provisions, retroactive to August 25, 2017, will extend children's eligibility so they can receive healthcare services beyond their usual renewal period.

- Established a Medicare Part C and D special enrollment period, allowing individuals affected by the hurricanes to enroll in, dis-enroll from, or switch, Medicare health or prescription drug plans. It is available at the start of the incident period and runs through the end of the calendar year.

Waivers are a vital tool available for CMS to use in emergency response efforts, but there are also additional steps we can take. For example, CMS made sure that beneficiaries were not discharged to unsafe conditions and continued to receive quality medical care by monitoring discharge appeals and quality of care reviews that arose as a result of the hurricanes. To help clarify billing instructions, we have issued technical direction to the Medicare Administrative Contractors regarding the waivers and have reminded area Medicare Advantage plans of their responsibilities to relax certain requirements during a disaster or emergency.

In response to requests or direction from the relevant state authorities, CMS clarified that issuers participating in the Federal Health Insurance Exchange have the flexibility to extend certain payment deadlines, including deadlines for binder payments to effectuate new policies and grace periods for existing enrollees. CMS also established a Federal Health Insurance Exchange special enrollment period, allowing certain individuals impacted by these hurricanes who experienced a qualifying life event to select a new 2017 Exchange plan or make changes to their existing plan at any time through December 31, 2017. In addition, individuals who reside in, or move from, areas affected by a hurricane in 2017 will be eligible for a special enrollment period that extends the 2018 Annual Open Enrollment Period through December 31, 2017.

Coordinating Relief Efforts with Local, State, and Federal Partners

The massive amount of destruction caused by the hurricanes requires extensive coordination between local, state, and federal public health officials. CMS teams, along with our state/territorial and federal partners, have been working around-the-clock to stay in constant communication with local officials to better understand the changing needs on the ground to help us get Americans the assistance they need to survive. For example, CMS:

- Coordinated with Puerto Rico Department of Health to develop a process for credentialing nurses and technicians from the mainland to provide relief for dialysis facility staff.

- Through the Kidney Community Emergency Response Program and the End State Renal Disease Networks, monitors before, during, and after the event to assess the impact to the End Stage Renal Disease Community. The Networks are CMS contractors responsible for working with individual dialysis facilities, the large dialysis organizations, and local officials to arrange for patients to have dialysis prior to a known event such as Hurricane Maria, increasing patients' capacity to wait for evacuation after the storm. Following the recent hurricanes, staff from the Networks, under the direction of CMS Project Officers, have been a critical part of the community effort to make sure patients in affected areas were able to access dialysis services.

- Through the End Stage Renal Disease Network 3, developed and tracked daily the operational status of dialysis facilities in Puerto Rico and their status with respect to fuel, water, and other supplies, and developed delivery schedules for fuel and water supplies.

- Worked with dialysis facilities, End Stage Renal Disease Networks, and the Kidney Community Emergency Response Program to assess the operational status of dialysis facilities, account for patients, and, with federal and state/territorial partners, to assure the delivery of necessary fuel for generators, water for dialysis treatments, and dialysis supplies.

- Through the End Stage Renal Disease Networks, collaborated with HHS partners and several non-government organizations, along with local physicians and providers, to provide transportation, meals, and other support for approximately 120 dialysis patients evacuated from U.S. Virgin Islands to Atlanta. In addition, staff identified hotels near dialysis centers where HHS is paying for these residents to stay until they can return home safely.

- Coordinated across the Agency and with State partners to address questions, provide information, and facilitate payment of services for Medicare and Medicaid beneficiaries who were evacuated across State/territory lines.

- Participated in a series of meetings with top HHS officials to discuss Harvey recovery efforts and the current status of preparation for Hurricane Irma.

- Joined key officials from across HHS, including CMS Administrator Verma, in site visits and/or stakeholder calls to talk with patients and health officials in affected areas, including Texas, Florida, and Puerto Rico to hear firsthand how they have been impacted by the storms and how CMS can help respond.

As the areas impacted by Hurricanes Harvey, Irma, Maria, and Nate continue to rebuild and recover from the devastation caused by these storms, CMS will continue to work hard to provide states, providers, and beneficiaries with the flexibility they need.

CMS Emergency Preparedness Efforts

CMS is committed to ensuring the safety of the millions of Medicare and Medicaid beneficiaries who rely on the U.S. healthcare system every day. This means making sure facilities that provide care are prepared and able to do so, even in emergencies and natural disasters. That is why CMS requires that all facilities seeking participation in Medicare and Medicaid comply with basic health and safety requirements set forth in the Medicare Conditions of Participation (CoPs). For example, these CoPs incorporate requirements for long-term care facilities for infection control, quality of care, nursing services, and many others, including emergency preparedness standards such as requiring Medicare-certified nursing homes to have a generator if they have residents on

electricity-dependent life support systems, and are also required to conduct appropriate installation and maintenance.[3]

Last fall, CMS updated and improved the emergency preparedness requirements for providers participating in Medicare and Medicaid.[4] For example, we now require facilities to use an "all-hazards" risk assessment approach in emergency planning to identify and address location-specific hazards and responses.[5] In addition, we require facilities to develop and maintain an emergency preparedness training and testing program for new and existing staff, including annual refresher training, along with a communications system to contact appropriate staff, patients' treating physicians, and other necessary persons in a timely manner to ensure continuation of patient care functions. The new standards became effective on November 15, 2016, and surveys to evaluate compliance with the new requirements will begin November 15, 2017. More information, including interpretive guidelines, Frequently Asked Questions, and surveyor training materials can be found on our website.[6]

Moving Forward

The areas affected by Hurricanes Harvey, Irma, Maria, and Nate will continue to encounter significant and unique challenges as they face the task of rebuilding. We must continue to think creatively about all the ways we can help and make a difference for all those depending on us to ensure they have healthcare and access to needed supplies and prescriptions.

This hurricane season has forced us to think outside of the box for creative ways to support and communicate with those serving the communities impacted by the storms, and CMS stands ready to work with our partners across the Federal government and, most importantly, with local communities, healthcare providers, and patients. CMS will continue to build upon our recent experiences from these significant storms to improve our readiness for the next natural disaster. We appreciate the Subcommittee's interest in these efforts, and look forward to working with you throughout the recovery process.

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[3] 42 CFR §483.73(e).
[4] https://www.gpo.gov/fdsys/pkg/FR-2016-09-16/pdf/2016-21404.pdf
[5] 42 CFR §483.73(d)(2), 42 CFR §483.73(e), and 42 CFR §483.73(e)(3)
[6] https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html.