NETEC COVID-19 Webinar Series:
1135 Waivers
Welcome

Shelly Schwedhelm, MSN, RN, NEA-BC
Welcome: Shelly Schwedhelm, MSN, RN, NEA-BC

1135 Waivers: Background and Overview: Rachel Lookadoo, JD

1135 Waivers: Practical Applications and COVID-19: Anna Cramer, JD

NETEC Resources: Shelly Schwedhelm, MSN, RN, NEA-BC

Questions and Answers with NETEC
Welcome

National Emerging Special Pathogens Training and Education Center Mission

To increase the capability of the United States public health and health care systems to safely and effectively manage individuals with suspected and confirmed special pathogens

For more information

Please visit us at www.netec.org
or email us at info@netec.org
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<th>NETEC Overview</th>
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<td><strong>Assessment</strong></td>
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<td>Empower hospitals to gauge their readiness using <strong>Self-Assessment</strong></td>
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<td>Measure facility and healthcare worker readiness using <strong>Metrics</strong></td>
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<td>Provide direct feedback to hospitals via <strong>On-Site Assessment</strong></td>
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<td><strong>Education</strong></td>
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<td>Provide self-paced education through <strong>Online Trainings</strong></td>
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<td>Compile <strong>Online Repository</strong> of tools and resources</td>
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<td>Develop customizable <strong>Exercise Templates</strong> based on the HSEEP model</td>
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<td>Provide <strong>Emergency On-Call Mobilization</strong></td>
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<td><strong>Research Network</strong></td>
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<td><strong>Online Repository</strong> Built for rapid implementation of clinical research protocols</td>
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<td><strong>Develop Policies, Procedures and Data Capture Tools</strong> to facilitate research</td>
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<td>Create infrastructure for a <strong>Specimen Biorepository</strong></td>
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<td><strong>Cross-Cutting, Supportive Activities</strong></td>
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1135 Waivers: Background and Overview

Rachel Lookadoo, JD
Introduction to 1135 Waivers

- Authority under Section 1135 of the Social Security Act
- Allows the Health and Human Services (HHS) Secretary to waive certain regulatory requirements in an emergency
- Exist to ensure that individuals have access to healthcare services and that healthcare facilities can continue to provide care
When can 1135 Waivers be Used?

Waivers can be issued when:

- HHS secretary declares a public health emergency and
- The President declares an emergency or disaster under the:
  
  Stafford Act
  National Emergencies Act

Use cases:

- Frequently used for natural disasters with a limited geographic area
- Only other use for a pandemic was the H1N1 pandemic in 2009
1135 Waivers: Background and Overview

What do 1135 Waivers Cover?

May waive or modify regulatory requirements relating to Medicare, Medicaid, and Children’s Health Insurance Program (CHIP) including:

- HIPAA
- Stark Laws
- EMTALA
- Conditions of Participation, etc.

Waivers often include exemption from sanctions for violating certain requirements.
### Blanket Versus Individual Waivers?

<table>
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<th>Blanket Waivers</th>
<th>Individual Waivers</th>
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<td>Apply to all healthcare facilities in a given geographic area</td>
<td>Approved on a case by case basis</td>
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<td>Do <em>not</em> require individual requests</td>
<td>Facilities may request to have certain regulatory requirements waived</td>
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<td>Requests must be made to regional CMS office</td>
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Facilities can act under the authority of a blanket request without filing a specific request.

A facility can notify their Centers for Medicare & Medicaid Services (CMS) regional office that they are acting under the authority of the waiver.
How can Healthcare Facilities Request 1135 Waivers?

Individual Waivers

Facilities must send a request to their CMS regional office and include:
- Facility name with full mailing address, including country
- CMS Certification number (CCN)
- Contact person and his/her contact information
- An explanation of why the waiver is needed
- The scope of the issue and the impact it has on the facility
- The type of relief the facility is seeking, or the regulatory requirement(s) / regulatory reference(s) that the requestor is seeking to have waived

There is no specific format or template for these requests.
How long do 1135 Waivers Last?

- Can be retroactively dated to the start of an emergency

- Waivers last for the duration of the declared emergency or 60 days since notice of the waivers was given, unless that time period is extended by the HHS Secretary

- Generally, HIPAA / EMTALA waivers are only supposed to last 72 hours, but in a pandemic, those waivers last the duration of the pandemic
1135 Waivers – COVID-19 Timeline

- **January 31:** HHS Secretary Azar declared a Public Health Emergency
- **March 13:** President Trump declared a national emergency
- **March 13:** Secretary Azar invoked his 1135 Authority and issued an initial blanket waiver, which is retroactively dated to March 1st
1135 Waivers: Practical Applications and COVID-19

Anna Cramer, JD
# CMS Waivers and Flexibilities

**Authorized pursuant to Sec. Azar’s March 13th Declaration**

**CMS Waivers**
- Blanket waivers
- State requests
- Individual provider/facility waivers

**Emergency Policies & Procedures permitted without an 1135 Waiver**


**Emergency Policies & Procedures that require an 1135 Waiver**

## CMS Waivers - Blanket

**Current blanket waivers**


- Do not require an individual request or notification to use
- May have conditions or limitations and may require additional waiver from State

**Includes waivers related to:**

- **EMTALA** (redirecting to another location for MSE; transfer of individual not stabilized)
- **Stark**
- **Telehealth**
Most states have requested and been granted waivers from CMS on behalf of all providers located in the state.

Find your state


State Hospital Associations have also taken active roles in making requests.
CMS Waivers – Individual Requests

- Facility/provider-specific needs
- CMS response time
- Drafting guidance & contact information

State Waivers

Usually authorized pursuant to Governor’s executive order/emergency declaration

State

- Executive Order and State Agency Action
- Statutory Authority triggered by Governor's EO/Declaration
- Individual provider/facility requests
1135 Waivers: Practical Applications & COVID-19

State Waivers

Provider State Licensure Waivers


Other examples:

- Facilities - Use of buildings/spaces not configured for hospital services; bed limit, use of audio/visual versus in-person
- Licensure - telehealth, new grads, license/certification renewals, practice outside board specialty
Billing/Coding and Advanced Payments

CMS COVID-specific requirements and guidance

- MLN Connects: [https://www.cms.gov/Outreach-and-Education/Outreach/FFSProvPartProg/Provider-Partnership-Email-Archive](https://www.cms.gov/Outreach-and-Education/Outreach/FFSProvPartProg/Provider-Partnership-Email-Archive)

Accelerated & Advanced Payments:

NETEC Resources

Shelly Schwedhelm, MSN, RN, NEA-BC
Resources

CMS “1135 Waivers at a Glance” Guidance Document:

CMS COVID-19 1135 Waivers Resource Page:

Slide 16: Emergency Policies & Procedures permitted without an 1135 Waiver:

Slide 16: Emergency Policies & Procedures that require an 1135 Waiver:

Slide 17: CMS Waivers - Current blanket waivers:

Slide 17: CMS Waivers - Stark:

Slide 17: CMS Waivers - Telehealth:

Slide 18: States that have requested and been granted waivers from CMS on behalf of all providers located in the state:
NETEC will continue to build resources, develop online education, and deliver technical training to meet the needs of our partners.

**Ask for help!**

Send questions to [info@netec.org](mailto:info@netec.org) - they will be answered by NETEC SMEs.

Submit a Technical Assistance request at [Netec.org](http://Netec.org)
### NETEC eLearning Center

**courses.netec.org**

### NETEC Skill videos

**YouTube: The NETEC**

## Join the Conversation!

- **Facebook:** @theNETEC
- **Twitter:** @the_NETEC
- **Instagram:** @theNETEC

Use hashtag: **#NETEC**

## Contact

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Questions and Answers