

Center for Medicaid and State Operations/Survey and Certification Group

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**Ref: S&C-08-36**  
**REVISED 9-15-2008**

**DATE:** September 12, 2008  
**TO:** State Survey Agency Directors  
**FROM:** Director  
Survey and Certification Group

**SUBJECT:** Survey and Certification Issues Related to Hurricane Ike  
**Memo revised to include Louisiana under public health emergency declaration**

**Memorandum Summary**

- **Situation:** States in the Gulf Region have been seriously impacted during this year's active hurricane season. Citizens are currently facing difficult circumstances as they respond to Hurricane Ike.
- **Emergency Declaration:** The President has declared a national emergency in specified counties in the States of Texas and Louisiana. On September 11, 2008, Mike Leavitt, the Secretary of the U.S. Department of Health and Human Services, also declared a public health emergency in the specified counties in Texas, and on September 13, 2008, declared a public health emergency existed in specified counties in Louisiana.
- **Authority:** The Centers for Medicare & Medicaid Services (CMS) may waive or modify, to the extent necessary, certain requirements, or timetables if providers, acting in good faith to provide needed forms and services, are unable to comply with the requirements as a result of the effects of the disaster.

Over the past week, several States have quickly responded to protect their citizens as Hurricane Ike approaches the Gulf Coast. The health care providers of Texas and Louisiana evacuated hundreds of patients and residents to safe locations, to ensure their safety and well-being. CMS fully supports the efforts of the many affected health care providers, as well as the numerous providers that are offering their assistance. We will take these emergency circumstances into account as we apply the Medicare and Medicaid standards that are designed to assure quality of care for all beneficiaries.

Mike Leavitt, the Health and Human Services Secretary, has declared a public health emergency in affected counties in the States of Texas and Louisiana, which invokes time-limited statutory authority under section 1135(b) of the Social Security Act (SSA) to permit CMS and its agents to waive or modify certain requirements, or modify certain deadlines and timetables for the performance of required activities. This waiver provides flexibility to the extent necessary to ensure that sufficient health care items and services are available to meet the needs of the individuals enrolled in the Medicare, Medicaid and State Children's Health Insurance Program (SCHIP), and to ensure that health care providers furnishing such items and services in good faith, but that are unable to comply with one or more of these requirements, may be reimbursed and exempted from sanctions that might otherwise apply, absent any determination of fraud or abuse.

The waivers and modifications apply only to the health care providers and suppliers located in the “emergency area” (as defined in section 1135(g)(1) of the SSA) for which the Secretary has declared a public health emergency for an “emergency period,” and only to the extent that the provider in question has been affected by the disaster, or is treating evacuees.

For more details regarding allowable waivers and modifications, see the *Provider Survey and Certification – Declared Public Health Emergencies – All Hazards Frequently Asked Questions (FAQs)*, which includes a list of questions and answers that have been developed to provide guidance during any public health emergency declaration. These FAQs may be accessed at: <http://www.cms.hhs.gov/SurveyCertEmergPrep/Downloads/AllHazardsFAQs.pdf>.

Because of the need to use reasonable waiver discretion only to the extent necessary, specific answers to provider questions depend upon each unique circumstance. Health care providers should be sure to contact their State Survey Agency, who will contact their CMS Regional Office staff for specific answers to each provider question.

### **Websites**

More information about hurricane emergency activities, including the Hurricane Ike public health emergency declarations and 1135 waiver, see the CMS Emergency Website at: [http://www.cms.hhs.gov/Emergency/02\\_Hurricanes.asp#TopOfPage](http://www.cms.hhs.gov/Emergency/02_Hurricanes.asp#TopOfPage).

For more information regarding survey and certification emergency preparedness issues, including helpful resources and tools, please see that S&C Emergency Preparedness Website, which can be accessed at: <http://www.cms.hhs.gov/SurveyCertEmergPrep/>.

/s/

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cc: Survey and Certification Regional Office Management