

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 East 12th Street, Room 355
Kansas City, Missouri 64106-2898



Medicaid and CHIP Operations Group

October 17, 2024

Jay Ludlam
Deputy Secretary of Medical Assistance
Division of Medical Assistance
2001 Mail Service Center
1985 Umstead Drive
Raleigh, NC 27699-20014

Re: Section 1135 Flexibilities Requested on October 16, 2024

Dear State Plan Amendment Coordinator Ashley Blango:

On September 25, 2024, the President of the United States issued a proclamation that 2024 Hurricane Helene constitutes an emergency by the authorities vested in the President by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.), and consistent with section 1135 of the Social Security Act (the Act). On September 28, 2024, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services (HHS) declared a public health emergency (PHE), invoking the authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act. During a PHE, the Centers for Medicare and Medicaid Services (CMS) may approve the use of section 1135 authority to help ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in CMS programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of September 28, 2024, with a retroactive effective date of September 25, 2024. The emergency period will terminate, and section 1135 waivers will no longer be available, upon termination of the PHE, including any extensions.

Your submission to CMS on October 16, 2024 detailed federal Medicaid requirements that pose issues or challenges for the health care delivery system in North Carolina. Below, please find a response to each of your requests for waivers or modifications, pursuant to section 1135 of the Act, to address the challenges posed by 2024 Hurricane Helene. To the extent the requirements the state requested to waive or modify apply to the Children's Health Insurance Program (CHIP), the state may apply the approved flexibilities to

CHIP.

We appreciate the efforts of you and your staff in responding to the needs of the residents and health care community in North Carolina. Please contact your state lead if you have any questions or need additional information.

Sincerely,

Courtney Miller
Director

cc: Courtney Miller
Anne Marie Costello
Daniel Tsai

NORTH CAROLINA
APPROVAL OF FEDERAL SECTION 1135 WAIVER REQUESTS

CMS Response: October 18, 2024

To the extent applicable, the following waivers and modifications also apply to CHIP.

Long Term Services and Supports (LTSS)

PASRR

Pursuant to section 1135(b)(5) of the Act, CMS approves a modification of Section 1919(e)(7) and 42 C.F.R. § 483.112 to allow Level I and Level II assessments to be waived by the state for 30 days from admission. After 30 days, Level I assessments should be conducted with reasonable promptness and Level II assessments should be coordinated with the resident review.

Additionally, please note that per 42 C.F.R. § 483.106(b)(4), new preadmission Level I and Level II screens are not required for residents who are being transferred between nursing facilities (NF). If the NF is not certain whether a Level I had been conducted at the resident's evacuating facility, a Level I can be conducted by the admitting facility during the first few days of admission as part of intake and transfers. Positive Level I screens necessitate a Resident Review.