

COVID-19 National Emergency Declaration
Section 1135 Waivers
March 15, 2020

March 15, 2020 update: The U.S. Department of Health and Human Services (HHS) today issued a second list of blanket waivers. This document has been updated accordingly.

Introduction

On March 13, 2020, the President declared a national emergency under the National Emergencies Act due to the COVID-19 pandemic. The declaration is retroactive to March 1. Coupled with the Jan. 31 declaration of a public health emergency by the Secretary of the U.S. Department of Health and Human Services (HHS), the HHS Secretary now has the authority to waive certain laws. This authority is sometimes referred to as an “1135 waiver,” as it is authorized by Section 1135 of the Social Security Act.

Note: This document describes waivers of federal laws. Information about waiver of state laws or program flexibility is [here](#).

Blanket Waivers

HHS issued a list of blanket waivers [on March 13](#) and a [second list on March 15](#). Both documents have the date of March 13, however. Hospitals do not need to request an individual waiver to be relieved from compliance with these laws to the extent described in these lists. HHS is expected to issue additional waivers early next week, including one related to telehealth.

Submitting an Individual Waiver Request

If a blanket waiver (above) is insufficient to meet your needs, you can submit a request to operate under an individual Section 1135 waiver.

The waiver request should include the following information:

1. Provider name and type
2. Full address (including county, city, town, and state)
3. CMS Certification Number (CCN) (Medicare Provider Number)
4. Name and contact information for a hospital employee who can respond to follow-up questions from the Centers for Medicare & Medicaid Services (CMS), which is part of HHS
5. A brief summary of why the waiver is needed. For example: “General Hospital has seen a sustained surge in presumed positive COVID-19 patients. General Hospital needs a waiver to exceed its bed limit by 15 beds for two weeks.”
6. The type of relief requested or the regulatory requirements to be waived

The request should be as clear as possible about the impact of the patient surge or supply/staffing shortage on the hospital.

There is no specific form or format for waiver requests – any letter or email containing the information listed above will suffice. CHA has developed a form that may be used for this purpose if desired, called [“Request for 1135 Waiver.”](#)

Waiver requests should be emailed to the CMS Western Consortium Regional Office that covers California at ROSFOSO@cms.hhs.gov. This email address should also be used for questions about federal waivers and to follow up on a waiver request. In addition, the hospital should send a copy of its federal waiver request to its local California Department of Public Health district office by email or fax.

CMS Process

CMS will review and validate a waiver request using a cross-regional Waiver Validation Team to ensure it is justified and supportable. CMS considers whether there is an actual need, whether the matter can be resolved within current regulations, and whether the relief requested will actually address the stated need.

Requests for a waiver are usually processed within three business days. The waiver may be retroactive to the beginning of the emergency period (March 1, 2020) or on any later date as determined by HHS.

Providers must resume compliance with normal rules and regulations as soon as they are able to do so.

General information about federal waivers is available [here](#).