

## Emergency Planning Policy

- 1 OPTIONS Family of Services is committed to providing all of our stakeholders with the safest environment possible. To help meet this commitment; OPTIONS has established a policy and procedure to ensure that sufficient health care items and services are available to meet the needs of the individuals we serve during specific time periods and further, that providers who provide such services in good faith, can be reimbursed and exempted from sanctions (absent any determination of fraud or abuse).

During an emergency, it may become necessary to waive certain CMS regulations. Once a local, state, and federal emergency has been officially declared, CMS allows facilities to request a waiver of individual CMS Requirements of Participation. These waivers are allowed under Part 1135 of the Social Security Act and are referred to as an 1135 Waiver.

- 2 When the President declares a disaster or emergency under the Stafford Act or National Emergencies Act and the HHS Secretary declares a public health emergency under Section 319 of the Public Health Service Act, the Secretary is authorized to take certain actions in addition to their regular authorities. Under section 1135 of the Social Security Act, they may temporarily waive or modify certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) requirements to ensure that sufficient health care items and services are available. This is to ensure that needs of individuals are met and that providers who provide such services in good faith may be reimbursed and remain exempt from sanctions.

If an Emergency is declared, OPTIONS' Administrator/Command Lead will determine if an 1135 waiver will be required to ensure the safety of the persons served by OPTIONS.

- 2.1 OPTIONS may also choose to be available as needed for additional emergency relief that would require an 1135 waiver.
- 3 The facility requesting the 1135 Waiver will provide to the Centers for Medicare and Medicaid Services (CMS) Regional Office (RO), at a minimum the following information, and copy the respective local CDPH District Office.
    - 3.1 A letter delineating all specific, relevant federal laws or regulations, for which a waiver is being sought.
    - 3.2 Clear reasons and justifications for the request.
    - 3.3 The State must have activated an emergency preparedness plan or pandemic preparedness plan in the area where the ICF-ID/H is located.

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- 3.4 The facility's *Continuation of Operations Plan (COOP)* must have been activated for the specific waiver being requested.
- 4 CMS has advised the California Department of Public Health (CDPH), Licensing and Certification Program (L&C) that L&C will be included in the review process and will be tasked with providing CMS with a recommendation for each 1135 Waiver request. In order to expedite the 1135 Waiver request process, L&C asks that all facilities electronically copy their L&C District Office with all the above information at the time it is sent to CMS, and asks facilities to include all other background documentation necessary to support the 1135 Waiver request. Because L&C will be involved in the review process it is possible that a representative from the L&C District Office or CMS may contact the facility to verify and/or clarify information in the request.
  - 4.1 The facility's 1135 Waiver request will undergo an expedited review process by the CMS National Validation Team, a committee established for the review of these requests, which will evaluate each request and make a determination as to whether the request will be approved or denied. CMS will track each request to ensure decisions are promptly returned to the requesting facility.
  - 4.2 CMS will contact the facility directly to inform the facility of CMS's decision to approve or deny all or parts of the 1135 Waiver request, and will also notify L&C of their decision.

Adopted: January 2018  
Reviewed: October 2018  
Revised: November 2019  
Reviewed: February 2021  
Revised: May 2023