

Federal and/or State Regulatory Flexibility and Guidance

While all Federal and State regulations remain in place, both the State of Michigan and the Centers for Medicare and Medicaid (CMS) understand the potential needs for flexibility. Historically, CMS has adapted billing and payment standards, census requirements and space allocation requirements when an emergency occurs. The CMS website includes information on emergency preparedness, past actions related to Hurricanes Katrina and Rita and program memoranda that explain billing issues.

<http://www.cms.hhs.gov/SurveyCertEmergPrep>

It is critical to make contact with the State Survey Agency as soon as possible when events occur. The emergency paging systems through the Bureau of Health Systems, Division of Nursing Home Monitoring, is managed 24 hours per day, 7 days per week. If the system is down due to power or communication interference, contact should be made as soon as the system will allow.

The emergency paging system number is: 877-278-8484:

Some common occurrences and questions include:

- 1) Q: What if we have to evacuate to another building? Who is responsible for care and how do we get paid? A: Each facility should try to reassign their staff to the location of their residents to avoid overwhelming the accepting facility. The State agency will assist with questions about payment, whether to admit the resident to the accepting facility and other complex issues. Providers should work together as well to coordinate staffing, equipment needs, supply management and care concerns.
- 2) Q: If we accept residents beyond our licensed bed capacity, will we be penalized? A: Notify the State Agency as soon as possible. Residents can be temporarily placed in rooms and group areas as long as safe passage and individual needs continue to be considered.
- 3) Q: Will the State Survey Agency or CMS cite us for failing to follow all rules during this emergency? A: The State agency and CMS will continue to require that residents basic needs be met. Proper medication, feeding needs, ADLs, communication and safety remain the responsibility of the facility. If you have a specific problem area or concern, contact the State Agency for guidance.
- 4) Q: How does each facility get paid by Medicare or Medicaid? A: The State Agency will contact CMS to develop a waiver agreement. The facility will be notified as to how to accomplish billing. Residents remain with the sending facility until a decision is made that they will not be able to return. At that point, the sending facility would be instructed to discharge and the accepting facility to admit.