

COVID-19 and Provider Enrollment: CMS issues FAQs About the Broad 1135 Waiver

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On Monday, March 23, 2020, the Center for Medicare and Medicaid Services (“CMS”) released Frequently Asked Questions on Medicare Provider Enrollment Relief related to COVID-19 (“FAQs”), available [here](#). The recent Public Health Emergency declaration by the Secretary of the

Department of Health and Human Services provided a broad 1135 waiver on enrollment screening requirements, application fees, criminal background checks, site visits, and certain licensure requirements. The FAQs provided guidance to providers on how CMS is exercising its authority under the 1135 waiver and on how to navigate enrollment during this emergency period.

Expedited Enrollment; Revalidation

Included in the FAQs were toll-free hotlines available to provide expedited enrollment. The applicable Medicare Administrative Contractor has the authority to screen and enroll physician and non-physician practitioners in Medicare on a temporary basis telephonically, and, if approved, to provide follow-up documentation of such approval. The effective date of the physician or non-physician practitioner’s billing privileges may be as early as March 1, 2020. Upon the lifting of the Public Health Emergency declaration, those who received temporary billing privileges through the expedited process will be asked to resubmit through the appropriate CMS-855 application. Note that this expedited telephonic enrollment process is *only* for physician and non-physician practitioners; all other providers and suppliers, including DMEPOS suppliers, must enroll and submit changes of information via the traditional CMS-855 application. Those applications will be expedited if received after March 1, 2020 with processing times of 7 business days for web applications and 14 business days for paper applications.

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Any applications received prior to March 1, 2020 are being processed in accordance with existing timelines; web applications processed within 45 days and paper applications processed within 60 days.

CMS is temporarily ceasing revalidation efforts for all Medicare providers or suppliers. Upon the lifting of the Public Health Emergency, CMS will resume revalidation activities. CMS also is currently postponing DME accreditation and reaccreditation timetables and deadlines. A DME supplier should still comply with accreditation requirements; however, formal accreditation from an accrediting organization will be postponed. CMS still plans to monitor billing activity during the emergency period.

Licensure

The FAQs clarified that, although the 1135 waiver allowed CMS to waive, on an individual basis, the Medicare requirement that a physician or non-physician practitioner must be licensed in the state in which he or she is practicing, the waiver is not available unless *all* of the following four conditions are met:



- 1) the physician or non-physician practitioner must be enrolled in Medicare;
- 2) the physician or non-physician practitioner must possess a valid license to practice in the state which relates to his or her Medicare enrollment;
- 3) the physician or non-physician practitioner is furnishing services – whether in-person or via telehealth – in a state in which the emergency is occurring in order to contribute to relief efforts in his or her professional capacity; and
- 4) the physician or non-physician practitioner is not affirmatively excluded from practice in the state or any other state that is part of the 1135 emergency area.

CMS clarified that the 1135 waiver does not have the effect of waiving state or local licensure requirements or any requirement specified by a state or a local government as a condition for waiving its licensure requirements. Those separate state requirements would continue to apply unless waived by the state.

If you have any questions about this alert please contact the author or your regular Dorsey attorney.