

Survey & Certification Group
Frequently Asked Questions (FAQs)
Emergency Preparedness Regulation

Real World Emergencies and Documentation

Q: If a facility accepted patient transfers due to another facility's real-world emergency, is the "accepting" facility exempt from the annual full-scale exercise requirement under 482.15(d)(2)(i)?

A: The receiving facility may be considered under the exemption above for 1 year following the actual disaster ONLY if it activated its own facility emergency plans. For instance, in a patient surge incident which led nursing home residents to be evacuated to a hospital, the hospital would be exempt if it activated its emergency plan.

Note: This exemption is applicable to all provider and supplier types.

Medicaid and Understanding Who This Applies to

Q: Do Medicaid only facilities have to comply with the emergency preparedness Final Rule.

A: If a Medicaid only facility is one of the 17 provider or supplier types included in the Final Rule, then yes, that facility must comply.

For example, Medicaid only hospitals must meet the Medicare requirements so they must comply with all of the hospital CoPs, including the Emergency Preparedness requirements. Note that not all provider types have a provision requiring them to meet the Medicare requirements in order to be Medicaid participating.

Determining Needs for Compliance- Medicare Certification

Note: Medicare certified providers are issued a CMS Certification Number (CCN). All locations of the certified provider that operate and bill under that CCN are considered to be part of that provider (even if located off campus.) For example, a hospital may have several off-campus clinics that operate under the hospital's CCN. Therefore those off-campus clinics are not free-standing clinics and are part of the hospital. Those clinics are required to comply with all of the hospital CoPs, including the Emergency Preparedness CoP. One CCN means one provider, but that provider can have multiple locations. More than one provider cannot exist under one CCN.

Q: There are some clinics that are associated with a hospital (either are actually physically attached to the hospital or are not) and do not have the same CCN number, do these clinics need to have their own emergency plans or can they have the same plans as the hospital?

A: Clinics and any other type of facility that do not operate under the same CCN of a hospital that they are "affiliated with" must have their own emergency preparedness program/plan.

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Q: If multiple sites within the same county, each with separate CCN (such as an RHC/FHQC) exist, does each location need to have its own program/risk assessment?

A: Each separately certified facility (separate CCNs) must have its own risk assessment.

Q: How does this rule apply to free-standing emergency departments?

A: Only emergency departments (located on or off campus) that are part of a Medicare certified hospital and operate under that hospital's CCN (CMS Certification Number) are required to be in compliance with the CMS Final Rule.

Q: We currently have Outpatient Speech Language Pathology but do not have Outpatient Physical Therapy. Do we fall under the following type of Facility impacted by the Emergency Preparedness Rule: Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services?

A: Both Outpatient Physical Therapy (OPT) and Outpatient Speech Language Pathology (OSP) are covered under the EP Condition for Participation. It does not matter whether the facility is providing one or both of the services.

Q: We are a statewide comprehensive healthcare system with multiple "Clinics as Providers of Outpatient Physical Therapy Services". However, those clinics do not have their own CMS Certification Numbers - they receive reimbursement under the CCN of their nearest affiliated Hospital or Critical Access Hospital, some without being located on the campus of those hospitals, or possibly even in different counties. Are these clinics required to comply with this Rule?

A: Clinics and outpatient departments that are off-campus provider-based departments of hospitals or CAHs are required to meet the requirements of the final rule. OPTs and Clinics that participate in Medicare/Medicaid but are not a provider-based department of a hospital or CAH are required to meet the requirements of the regulation, under §485.727.

General Questions

Q: The Interpretive Guidelines state that facilities should consider that *if an evacuation is in progress and the facility must evacuate, leadership should consider the needs for critically ill patients to be evacuated and accompanied by staff who could provide care and treatment enroute to the designated relocation site, in the event trained medical professionals are unavailable by the transportation services.* What are the expectations when the staff arrive at the intake facility and are asked to stay to assist?

A: The guidance touches on the importance of succession planning, as well as identification of patient "at-risk" populations. We do not address their status after they have arrived at an alternate location. Providers might consider different support scenarios for evacuated patients when

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developing their evacuation policies and procedures such as state and local requirements and or other considerations for both evacuating and hosting facilities. For example, if the evacuating facility is evacuating all patients and it is evident that the intake facility needs assistance from the evacuated facility staff, this would be acceptable as long as each facility complies with their state and local laws as it relates to credentialing and providing services.

Life Safety Code

Q: Under the CMS Fire Safety Final Rule (published 05/04/2016), the regulation adopted NFPA 99 with the exceptions of:

Chapter 7— Information Technology and Communications Systems for Health Care Facilities; Chapter 8—Plumbing; Chapter 12— Emergency Management; and Chapter 13— Security Management.

Under the Emergency Preparedness Final Rule, an incorporation by reference states that the NFPA 99 was adopted in its entirety. Do facilities under the emergency preparedness requirements now need to include the four chapters previously exempted?

A: The four chapters have not be adopted by CMS. The Chapters 7, 8, 12 and 13 were not adopted as part of the adoption of the 2012 edition of the NFPA 99. Therefore, please consider the four chapters to remain exempt under the emergency preparedness requirements. However, these four chapters of the 2012 edition of NFPA 99 may serve as a guide or additional resource under emergency management.

Q: Under what conditions are portable generators appropriate?

A: Within Appendix Z- Interpretive Guidelines for Emergency Preparedness for All Providers and Suppliers, we discuss under Standard (b), which puts forth the requirements for some providers to have temperature control and alternate source energy, the use of portable generators. The guidance states: *“If a facility determines the best way to maintain temperatures, emergency lighting, fire detection and extinguishing systems and sewage and waste disposal would be through the use of a portable generator, then the Life Safety Code (LSC) provisions, such as generator testing and fuel storage, etc. outlined under the NFPA guidelines would not be applicable. Portable generators should be operated, tested, and maintained in accordance with manufacturer, local and/or State requirements.”*

This only would apply to those facilities affected by Standard (b), with the exception of providers and suppliers who choose to do this outside of the emergency preparedness requirements, but DOES NOT apply to Hospitals, CAHs and LTC facilities. NFPA 110 requires emergency power supply systems to be permanently attached, therefore portable and mobile generators would not be permitted as an option to provide or supplement emergency power to Hospitals, CAHs or LTC facilities as outlined within the Emergency Power section-Standard (e) requirements.

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Training Exercises and “Annual” Requirement

Question: If a state or local emergency response agency conducts its annual emergency preparedness exercise the 3rd week of November 2017 (past the CMS implementation date of November 15, 2017), will a facility be out of compliance if it does not participate in a full-scale community based exercise by November 15, 2017, but instead participates in the state/local exercise during the third week of November 2017?

Answer: Facilities must be compliant with the two training exercises requirement by November 15, 2017. The regulation allows for facilities to conduct an individual facility-based exercise if a full-scale community-based exercise is unavailable. If the facility chooses not to participate in a community-based exercise prior to November 15, 2017 and does not complete an individual full-scale facility-based exercise (in place of a community-based exercise), it would be out of compliance.

Surveyors will likely cite the non-compliance as standard-level non-compliance (Level C for Long Term Care facilities) in this first year as modified enforcement. As with any other non-compliance, the facility would submit an acceptable plan of correction which would include plans to participate in the required training exercises. Facilities will be expected to demonstrate to surveyors that it has completed 2 of the required training exercises within the previous 12 months, or between November 15th and November 15th of the following year.

It is important to note that facilities which experience an actual emergency requiring activation of their emergency plan are exempt from the full-scale requirement for that annual year, but must still meet the second exercise requirement (i.e. table-top exercise or exercise of their choice).

Facilities with Multiple Locations versus Integrated Health Systems

Question: What are the requirements for facilities with multiple locations versus a separately certified facility that is part of an integrated health system that elects to have a unified and integrated emergency preparedness program?

Answer: Each separately certified Medicare participating facility (i.e. different Certification Number (CCN) numbers), is responsible for maintaining compliance with the Emergency Preparedness requirements whether the facility is part of an integrated health system or not. If a separately certified facility is part of a health system that has elected to have a unified and integrated emergency preparedness program, the facility may choose to participate in the healthcare system’s unified and coordinated emergency preparedness program. This does not exempt a separately certified facility from demonstrating independent compliance with the emergency preparedness regulations. Rather, it permits a separately certified facility to partner with the health system in meeting the emergency preparedness requirements. Surveyors assess compliance in separately certified facilities. They do not assess compliance of “health systems”. It is important to understand that a separately certified facility can have multiple locations all operating under one CCN. All locations of a facility operating under the same CCN must be included in the facility’s emergency preparedness program and be in compliance with all of the

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emergency preparedness requirements. This means that all locations of a facility must also be included in the annual training/exercise requirements too. A health system is different in that it contains multiple separately certified facilities all operating under different CCNs. The health system is not certified by CMS and is not assessed for compliance. It is up to each provider/supplier to demonstrate compliance with the requirements upon survey. See examples below.

1. Hospital Z has one outpatient clinic located outside of the hospital and operates under Hospital Z's CCN. The outpatient clinic is considered part of Hospital Z and must be in compliance with the emergency preparedness regulations. The outpatient location of hospital Z must be part of hospital Z's emergency preparedness program. Emergency policies and procedures for the outpatient clinic must be part of Hospital Z's emergency program as the clinic is part of the certified hospital.

2. Hospital Z has a SNF located in a separate building on Hospital Z's campus. Hospital Z and the SNF have separate CCN numbers. Therefore they are separately certified providers and each must meet the emergency preparedness requirements independently. However, both Hospital Z and the SNF could be part of an integrated health system that elects to have a unified and integrated system emergency preparedness program. In that case Hospital Z and the SNF may participate in the integrated system program to meet the requirements. However, Hospital Z and the SNF are still individually responsible for being in compliance.

3. An ESRD facility, a LTC facility and a hospital are all separately certified provider/supplier types operating under different CCNs. They are all part of the same healthcare system that has elected to have a unified and integrated system emergency preparedness program and are not co-located. Therefore, these facilities, while separately certified and not co-located, can choose to participate in the system's unified and integrated emergency preparedness program.

4. Hospital B is has a co-located hospital unit (from Hospital C) within the same building. Both hospitals have separate CCN numbers and are not part of the same healthcare system. Because Hospital B and Hospital C are separately certified facilities with separate CCNs they must demonstrate compliance with emergency preparedness as separate entities. Hospital B and hospital C would not be able to participate in the same unified and integrated emergency preparedness program because they are not part of the same healthcare system. However, it is recommended, not required, that both hospital B and hospital C (being co-located in the same building) understand each other's needs, plans for evacuation and potentially coordinate with each other for exercises to be able to assist each other during emergencies as appropriate.