CMS Emergency Preparedness Rule

What's New based on the *Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction* Final Rule

Provided By:

Quality, Safety & Oversight Group

Centers for Medicare & Medicaid Services

Final Rules

- Original Emergency Preparedness Final Rule: *Medicare and Medicaid Programs; Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers* (2016)

- Revisions to Emergency Preparedness Requirements: *Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction* (2019)

Important Reminders

- The Final Rule for Emergency Preparedness published in 2016 and provisions were updated with the Burden Reduction Final Rule.

- Emergency Preparedness still applies to all 17 provider and supplier types

- Compliance required for participation in Medicare

- Emergency Preparedness is ONE CoP/CfC of many already required

Four Provisions for All Provider Types

Risk Assessment and Planning

Policies and Procedures

Emergency Preparedness Program

Communication Plan

Training and Testing

Primary Changes as of 2019's Burden Rule

- **Review & Updates**:
  - Plans, policies and procedures, communication plan **reduced to at least every 2 years** (annually for LTC). Review/updates should still occur as needed with changes.

- **Training/Testing**
  - For inpatient providers, expanded the types of acceptable testing exercises that may be conducted.
  - For outpatient providers, revised the requirement such that only one testing exercise is required annually, which may be either one community-based full-scale exercise, if available, or an individual facility-based functional exercise, every other year and in the opposite years, these providers may choose the testing exercise of their choice.

Risk Assessment and Planning

- Develop an emergency plan based on a risk assessment.

- Perform risk assessment using an "all-hazards" approach, focusing on capacities and capabilities.

- Facilities must still have a process for cooperation and collaboration with local, tribal (as applicable), regional, State, and Federal emergency preparedness officials' efforts to maintain an integrated response during a disaster or emergency situation. **Facilities should be able to describe the process, but it no longer needs to be documented in writing (2019).**

- Update emergency plan at least every 2 years (annually for LTC)

All-Hazards Approach:

- An all-hazards approach is an integrated approach to emergency preparedness that focuses on identifying hazards and developing emergency preparedness capacities and capabilities that can address those as well as a wide spectrum of emergencies or disasters.

- This approach includes preparedness for natural, man-made, and or facility emergencies that may include but is not limited to: care-related emergencies; equipment and power failures; interruptions in communications, including cyber-attacks; loss of a portion or all of a facility; and, interruptions in the normal supply of essentials, such as water and food; and emerging infectious disease (EID) threats.

Policies and Procedures

- Develop and implement policies and procedures based on the emergency plan and risk assessment.

- Policies and procedures must address a range of issues including subsistence needs, evacuation plans, procedures for sheltering in place, tracking patients and staff during an emergency.

- Review and update policies and procedures at every 2 years (annually for LTC).

Communication Plan

- Develop a communication plan that complies with both Federal and State laws.

- Coordinate patient care within the facility, across health care providers, and with state and local public health departments and emergency management systems.

- Review and update plan at least every 2 years (annually for LTC).

Training and Testing Program

- Develop and maintain training and testing programs, including initial training in policies and procedures.

- Demonstrate knowledge of emergency procedures and provide training at least annually.

- Conduct drills and exercises to test the emergency plan.

New Definitions for Training/Testing

- **Functional Exercise (FE):** "FEs are designed to validate and evaluate capabilities, multiple functions and/or sub-functions, or interdependent groups of functions. FEs are typically focused on exercising plans, policies, procedures, and staff members involved in management, direction, command, and control functions" as defined by HSEEP. We are aligning our definitions with those guidelines.

- For additional details, please visit HSEEP guidelines located at https://preptoolkit.fema.gov/documents/1269813/1269861/HSEEP_Revision_Apr13_Final.pdf/65bc7843-1d10-47b7-bc0d-45118a4d21da

New Definitions for Training/Testing

- ***Mock Disaster Drill:*** A drill is a coordinated, supervised activity usually employed to validate a specific function or capability in a single agency or organization. Drills are commonly used to provide training on new equipment, validate procedures, or practice and maintain current skills.

- For example, drills may be appropriate for establishing a community-designated disaster receiving center or shelter. Drills can also be used to determine if plans can be executed as designed, to assess whether more training is required, or to reinforce best practices.

New Definitions for Training/Testing

- ***Workshop:*** A workshop, for the purposes of this guidance, is a planning meeting/workshop which establishes the strategy and structure for an exercise program. We are aligning our definitions with those guidelines. For additional details, please visit HSEEP guidelines.

Training Requirements

- Conduct initial training in emergency preparedness policies and procedures to all new and existing staff, individuals providing services under arrangement, and volunteers

- After initial training, provide emergency preparedness training every 2 years (Annually for LTC)

- Demonstrate staff knowledge of emergency procedures.

- Maintain documentation of all emergency preparedness training.

- If the emergency preparedness policies and procedures are significantly updated, conduct training on the updated policies and procedures.

Testing Changes with Burden Reduction

- **For inpatient providers:** The types of acceptable testing exercises are expanded. Inpatient providers can choose one of the two annually required testing exercises to be an exercise of their choice, which may include one community-based full-scale exercise (if available), an individual facility-based functional exercise, a drill, or a tabletop exercise or workshop that includes a group discussion led by a facilitator.

- **NOTE:** For LTC facilities, while the types of acceptable testing exercises was expanded, LTC facilities must continue to conduct their exercises on **an annual basis**.

Testing Changes with Burden Reduction

- **For outpatient providers:** Facilities are required to only conduct one testing exercise on an annual basis, which may be either one community-based full-scale exercise, if available, or an individual facility-based functional exercise, every other year and in the opposite years, these providers may choose the testing exercise of their choice.

- These outpatient providers are required to conduct one full-scale or individual facility based exercise every two years, and in the opposite years, the providers can conduct testing exercise of choice, which can include either a full-scale, individual facility-based, drill, tabletop of workshop which includes a facilitator.

Testing Exercises- Reminder

- CMS is not specifying a minimum number of staff which must attend these exercises, however facility leadership and department heads should participate in each exercise.

- If an exercise is conducted at the individual facility-based level and is testing a particular clinical area, the expectation is that staff who work in this clinical area participate in the exercise for a clear understanding of their roles and responsibilities.

Testing Exercises- Reminder

- Additionally, facilities can review which members of staff participated in the previous exercise, and include those who did not participate in the subsequent exercises to ensure all staff members have an opportunity to participate and gain insight and knowledge.

- A sufficient number of staff should participate in the exercise to test the scenario and thoroughly assess the risk, policy, procedure, or plan being tested

Temperature Controls and Emergency and Standby Power Systems

- Under the Policies and Procedures, Standard (b) there are requirements for subsistence needs and temperature controls for inpatient facilities.

- Additional requirements for hospitals, critical access hospitals, and long-term care facilities are located within the Final Rule under Standard (e) for Emergency Power and Stand-by Systems.

- If surveyors are unclear if the E-Tags cross over to the K-Tags for LSC for provider/suppliers affected by LSC, then they should consult with the LSC surveyor

Where are we now?

- Our Surveyor Training (available publically) is under development to reflect these new changes.

- Appendix Z updates are in progress and forthcoming.

- Changes are effective upon implementation of this Final Rule- no grace period.

- Facilities continue to be surveyed in conjunction with scheduled surveys and survey cycles based on their provider types.

Reminders and Important Notes

- While we encourage the use of healthcare coalitions, we recognize this is not always feasible for all providers and suppliers.

- For facilities participating in coalitions, we are not specifying the "level" of participation. However, if facilities use healthcare coalitions to conduct exercises or assist in their efforts for compliance, we ask this would be documented and in writing.

Reminders and Important Notes *Continued*

- When developing transfer agreements, facilities must take into account the patient population and the ability for the receiving facility to provide continuity of services.

- If a facility has a transfer arrangement with another facility and this facility could not accommodate all patients, then the facility should plan accordingly to provide continuity of services with another facility who could receive the remaining residents.

Reminders and Important Notes
Continued

- Facilities should also take into account the availability of contracted resources during an emergency event. For instance, a facility has a written arrangement with a transportation company, yet during an emergency the transportation company is unable to reach the facility due to flooding and/or having other arrangements with the community.

- The facility is responsible to ensure these areas are discussed and managed within their policy and procedure to ensure availability of resources during an emergency event.

- It would be appropriate for the facility to have discussions with transportation vendors about their competing contracts during an emergency and the vendor's continuity of business plans in the event of an emergency.

State Requirements & Accrediting Organizations

- The Emergency Preparedness Rule does not specify quantities within any provisions. The rule is broad and overarching.

- Facilities should check with their State Survey Agencies and Accrediting Organizations (as applicable) for any specific non-CMS requirements which may exceed the Final Rule.

Compliance

- Facilities are expected to be in compliance with the EP requirements with these changes effective 11/29/2019.
  Note: these changes only reflect the revised emergency preparedness provisions, not the other Burden Reduction changes.

- In the event facilities are determined non-compliant, the same general enforcement procedures will occur as is currently in place for any other conditions or requirements cited for non-compliance.

Use the Checklists

- We would recommend both surveyors and facilities use the checklists developed by ASPR to help guide them to their specific requirements.

- Review the checklists under Facility-Specific Requirement Overviews at https://asprtracie.hhs.gov/cmsrule

- Consider annotating on the checklist, the location of each of your elements of the plan to assist surveyors reviewing on-site.

Thank you!

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Disclaimer

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