



CMS Emergency Preparedness Rule

Preparing for Implementation

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Emergency Preparedness Final Rule

- Final Rule Published September 16, 2016
- Applies to all 17 provider and supplier types
- **Implementation date November 15, 2017**
- Compliance required for participation in Medicare
- Emergency Preparedness is one new Condition for Participation (CoP)/Condition for Coverage (CfC)/Requirement of many already required by providers/suppliers
- **Appendix Z contains Interpretive Guidance and Survey Procedures**
- The new EP Tags will be in ASPEN beginning November 15, 2017. Note, these are E-Tags and will produce a new 2567.

Surveying Emergency Preparedness Requirements

- There is NO one size fits all emergency preparedness program.
- Expect to see many different variations of emergency preparedness programs upon survey.
- Surveyors ARE NOT expected to scrutinize or “approve” of a facility’s emergency preparedness program.
- Surveyors are expected to VERIFY that all of the required elements are included and training/testing requirements are completed (i.e. surveying for majority of EP is a document review).

Surveying Emergency Preparedness Requirements

- The Emergency Preparedness (EP) requirements will be evaluated on all full surveys and as appropriate on complaint surveys.
- Depending on the facility type and/or State, the EP requirements will be evaluated by health and safety surveyors OR life safety code surveyors.
- Considerations:
 - Survey process does not change from how facilities are currently surveyed.
 - States/RO's may find it easier to use LSC Surveyors as these requirements are not clinical in nature.

Emergency Preparedness CoP/CfC

Facilities must:

- Comply with all applicable Federal, State, and local emergency preparedness requirements.
- Develop and maintain an emergency preparedness program utilizing an all hazards approach.

Emergency Plan CoP/CfC

Facilities must develop and maintain an emergency preparedness plan and review and update the plan on an annual basis.

The plan must:

- Be based on community and facility risk assessments
- Include strategies for dealing with emergencies identified in the risk assessments
- Address the patient population
- Include a process for collaboration with local, tribal, regional, State and Federal emergency officials

Policies and Procedures CoP/CfC

Facilities must develop policies and procedures based on the EP plan and communication plan.

Policies and procedures must:

- Be reviewed and updated annually
- Address subsistence needs of patients and staff
- Include a system to track patients and staff
- Include a plan for safe evacuation

Policies and Procedures CoP/CfC (cont'd)

Policies and procedures must address:

- How patients, staff and volunteers would shelter in place
- A system of medical documentation that maintains availability of records, protects confidentiality, etc.
- Staffing strategies and the use of volunteers
- Patient transfer arrangements with other facilities
- The provision of care at an alternate site (under an 1135 waiver)

Communication Plan CoP/CfC

Facilities must develop and maintain a communication plan that complies with Federal, State and local laws. The plan must be reviewed and updated annually

The plan must include:

- Contact information for staff, patient physicians, volunteers, contractors, other facilities as appropriate
- A primary and alternate means for communication
- A method for sharing patient information to other providers

Communication Plan CoP/CfC (cont'd)

The plan must include:

- A means to release patient information due to an evacuation (as permitted under HIPAA rules)
- A means of providing information about the location and general condition of patients (as permitted under HIPAA rules)
- A means to provide information, regarding the facility's occupancy, needs, and its ability to provide assistance to the authority having emergency jurisdiction

Training and Testing CoP/CfC

Facilities must develop and maintain an EP training and testing program. The program must be reviewed and updated annually.

- Initial training required for all new and existing staff, volunteers and individuals providing services under arrangement (contractors, per diem staff, etc.)
- Annual training required thereafter
- Must maintain documentation of the training
- Training may be tailored to specific staff roles

Testing: Annual Exercises CoP/CfC

Facilities must conduct exercises on an annual basis

- Participate in a full-scale community based or individual based exercise (when a community based exercise is not available)
- Conduct a second exercise (may be full-scale community or individual exercise or tabletop exercise)

Testing: Annual Exercises CoP/CfC (cont'd)

- If a facility experiences an emergency that requires activation of the emergency plan, the facility is exempt from having to complete a full-scale exercise for one year following the event
- Must analyze the responses to and maintain documentation of all drills, exercises and actual emergencies and update emergency plan as needed

Testing and Compliance

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.

Testing and Compliance Guidance

Surveyors will likely cite the non-compliance as standard-level (Level C for Long Term Care facilities) in the first year of implementation as modified enforcement. As with any other non-compliance, the facility must submit an acceptable plan of correction which would include specific dates the facility plans to participate in the required training exercises.

Facilities will be expected to demonstrate to surveyors that they have completed the two of the required training exercises within the previous 12 months, or between November 15th and November 15th of the following year.

Integrated Healthcare Systems CoP/CfC

Facilities that are part of a system consisting of multiple, separately certified healthcare facilities that elects to have a unified and integrated emergency preparedness program (EP), may choose to participate in the system's unified and integrated EP program.

Integrated Healthcare Systems CoP/CfC

If a facility elects to participate in the unified EP program, the facility must demonstrate/include:

- Active participation in the development of the unified program
- The facility's unique circumstances, patient populations, and services are part of the program
- It is capable of utilizing the unified EP program
- A community-based and facility based risk assessment specific to the facility
- Integrated policies and procedures that meet all requirements

Facilities with Multiple Locations

All locations of a Medicare certified provider or supplier must be included in the facility's EP program (all locations operating under the same CCN).

Off-campus locations of a Medicare certified provider or supplier that are co-located with another healthcare entity must be part of **it's** facility's EP program but may collaborate with the co-located entity as part of each facility's community-based risk assessments and community-based exercises.

Emergency and Standby Power Systems

Standard (e) – applies only to hospitals, CAHs and long term care facilities.

- Emergency and stand-by power systems (generators) must be based on the emergency plan, risk assessment and policies and procedures. The determination for a generator should be made through the development of the facility's risk assessment and policies and procedures. If these facilities determine that no generator is required to meet the emergency power and stand-by systems requirements, then §§482.15(e)(1) and (2), §483.73(e)(1) and (2), §485.625(e)(1) and (2), would not apply.
- However, these facility types must continue to meet the existing provisions and requirements for their provider/supplier types under physical environment CoPs or any existing LSC guidance.

Alternate Sources of Energy

Standard (b) requires facilities to have policies and procedures that address alternate uses of energy.

- Does not require facilities to have or install generators or any other specific type of energy source.
- It is up to each individual facility, based on its risk assessment, to determine the most appropriate alternate energy sources to maintain temperatures to protect patient health and safety and for the safe and sanitary storage of provisions, emergency lighting, fire detection, extinguishing, and alarm systems and sewage and waste disposal. Whatever alternate sources of energy a facility chooses to utilize must be in accordance with local and state laws as well as relevant LSC requirements.

Be Aware of Slight Differences in Requirements

- Outpatient providers are not required to have policies and procedures for the provision of subsistence needs.
- Home health agencies and hospices required to inform officials of patients in need of evacuation.
- Long-term care and psychiatric residential treatment facilities must share information from the emergency plan with residents and family members or representatives.

Compliance

- In the event facilities are non-compliant, the same general enforcement procedures will occur as is currently in place for any other conditions or requirements cited for non-compliance.
- Survey reports for compliance for emergency preparedness will be a separate CMS Form 2567 Statement of Deficiencies BUT be conducted in conjunction with either a LSC or Health Inspection survey

Look at the Resources

- SCG's Emergency Preparedness Website has an area with FAQs and resources available to the stakeholders and to the surveyors.
- <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>

Other Areas of Clarification

- **Definition of a “Clinic”.** The regulation states under 485.727 Condition of participation: Emergency preparedness. The Clinics, Rehabilitation Agencies, and Public Health Agencies **as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services** (“Organizations”).
- Therefore, both OPT and OSP are covered under the EP CoP and it does not matter whether the facility is providing either or one of the services. No other clinics, other than those falling under one of the 17 provider/supplier types-under their CCNs, are covered under this regulation.

Questions??

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Thank you!



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