

CMS Proposes to Take Emergency Preparedness to the Next Level by Imposing Extensive Planning, Assessment, and Training Requirements on All Facility-Based Providers

Emergency preparedness is not a new concept for healthcare providers. Since the September 11, 2001 terrorist attacks and subsequent anthrax attacks, catastrophic hurricanes, floods, and tornadoes in the United States, preparing for public health emergencies has remained at the top of the national agenda. In fact, the FDA, CDC, HRSA, and other federal agencies have promulgated regulations and guidance related to emergency preparedness. Additionally, the healthcare industry has focused on emergency preparedness as The Joint Commission, American Osteopathic Association, National Fire Protection Association, and American College of Healthcare Executives have issued industry guidance on the topic.

Recently, the Centers for Medicare & Medicaid Services (CMS) reviewed the existing guidance and regulations pertaining to emergency preparedness in the healthcare industry, and concluded that current emergency preparedness requirements are not comprehensive enough to address the complexities of actual emergencies. Consequently, CMS published a [proposed rule](#) on December 27, 2013 that will impose consistent and enforceable requirements on all affected Medicare and Medicaid providers and suppliers.

Although many healthcare providers have already established emergency preparedness plans, CMS' 120 pages of proposed regulations are detailed, comprehensive, and include more onerous requirements. If finalized in their current form, the proposed rule will impose extensive emergency preparedness conditions of participation or conditions of coverage on Hospitals (including Critical Access Hospitals), Ambulatory Surgical Centers, Long Term Care Facilities, Intermediate Care Facilities, Home Health Agencies, Hospices, Comprehensive Outpatient Rehabilitation Facilities, Community Mental Health Centers, End-Stage Renal Disease Facilities, Rural Health Clinics, Programs of All-Inclusive Care for the Elderly, Transplant Centers, and Religious Nonmedical Health Care Institutions.

In developing the proposed regulations, CMS identified four core elements that CMS believes are central to an effective emergency preparedness system. CMS believes that these core elements must be addressed to offer a more comprehensive framework for responding to emergencies.

1. Risk Assessment and Planning

If the proposed regulations are adopted, providers will be required to conduct a comprehensive risk

assessment that addresses critical capabilities to preparedness for a full spectrum of emergencies and disasters. CMS refers to this as an "all-hazards" approach, which is specific to the provider's location and would include acts of terrorism, natural disasters, cyber attacks, pandemics, biological or nuclear attacks, and any other types of hazards which may occur in the provider's area. The provider's emergency plan must then be developed and maintained to address the specific risks identified. As an example, this element would require hospitals to determine which nearby hospitals could serve as alternative care sites in the event of an emergency or evacuation.

2. Policies and Procedures

As drafted, the proposed regulations require development and implementation of policies and procedures based on the emergency plan and risk assessment, to be reviewed at least annually. As an example, if the proposed regulations are finalized, hospitals will be required to adopt and implement policies and procedures that identify the amount of food and drink ("subsistence") a hospital must store on site to provide for patients and staff in the event of an emergency. Hospital policies

will also be required to address disposal of sewage and waste, activation of alternate sources of energy, and tracking of patients during an emergency or evacuation.

3. Communication Plans

The proposed rule requires development and maintenance of an emergency preparedness communication plan that complies with federal and state law. The communication plan would need to ensure coordination of patient care within the facility, across healthcare providers, and with state and local public health departments and emergency systems to protect patient health and safety in the event of a disaster. For example, a hospital's communication plan would be required to identify names and contact information for all pertinent employees, physicians, volunteers, and nearby hospitals. Also, the rule requires hospitals to establish a HIPAA-compliant method of sharing patient information and keeping medical records secure and readily available during an emergency.

4. Training and Testing

If the regulations are adopted, CMS will require development and maintenance of a well-

organized, effective emergency preparedness training and testing program that addresses initial emergency preparedness training and ensures staff can demonstrate knowledge of emergency procedures. This element requires hospitals to participate in a community mock disaster drill and "paper-based, tabletop exercises" at least annually to test the emergency plan.

What This Means for Providers – From Plan to Program

It is clear that CMS now expects all healthcare providers to have more than just an emergency preparedness *plan*. Instead, all healthcare providers are now expected to implement an emergency preparedness *program*. The difference is that a program allows for continual building of a comprehensive system of healthcare response to emergencies. It is "alive," and constantly evolving. It does not grow stale and outdated, but must be updated frequently, always being scrutinized to ensure coverage of the "all-hazards" risk assessments. The plan also includes ongoing staff training of the emergency plan to ensure the organization is ready to implement the plan at a moment's notice when a disaster or emergency strikes.

Comments Requested

CMS has requested feedback on whether the proposed requirements are appropriate for each type of facility, and will accept comments through February 25, 2014. Providers should devote resources to reviewing CMS' proposed emergency preparedness regulations and consider commenting.

If you would like assistance in commenting on the Proposed Rule, or if you have other questions relating to emergency preparedness, please contact a member of HDJN's emergency preparedness team:

Mary Malone
mmalone@hdjn.com
(804) 967-9604

Page Gravely
pgravely@hdjn.com
(804)967-9604

Emily Towey
etowey@hdjn.com
(804) 967-9604

Molly Huffman
mhuffman@hdjn.com
(804)967-9604

Andrew Schutte
aschutte@hdjn.com
(804) 967-9604

Additional information about Hancock, Daniel, Johnson & Nagle, P.C. is available on the firm's website at www.hdjn.com.

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