

CMS EXEMPTS CERTAIN EMERGENCY PREPAREDNESS REQUIREMENTS IN RESPONSE TO THE PUBLIC HEALTH EMERGENCY

October 14, 2020

On September 28, 2020, the Centers for Medicare and Medicaid Services (“CMS”) issued [QSO-20-41-ALL, Guidance related to the Emergency Preparedness Testing Exercise Requirements - Coronavirus Disease 2019 \(COVID-19\)](#) (the “Guidance”). The Guidance provides a short summary of emergency preparedness planning and exercise requirements in various inpatient and outpatient settings, the most recent updates for which are summarized under CMS’s September 30, 2019, Final Rule ([84 FR 51732](#)) (the “Final Rule”), which includes information on requirements for:

- Full-Scale Exercises: Exercises coordinated between multiple internal departments/external agencies;
- Functional Exercises: Activities designed to validate/evaluate capabilities and functions;
- Mock Disaster Drills: Coordinated/supervised activities to validate functions and capabilities in practice;
- Table-Top Exercises: Discussions between key personnel to assess plans, policies, and procedures; and
- Workshops: Planning meetings to establish strategy/structure for an exercise program.

Under the new Guidance, CMS is exempting facilities that have activated their emergency plans “from the next required full-scale community-based or individual, facility-based functional exercise” (emphasis added). CMS further clarifies that “facilities must be able to demonstrate, through written documentation, that they activated their program due to the emergency” for the exemption to apply. Notwithstanding this change, CMS is still requiring providers to conduct exercises constituting “exercises of choice” as scheduled, on an annual basis for applicable inpatient providers and every two years for outpatient providers (“exercises of choice” include Mock Disaster Drills, Table-top Exercises, and Workshops).

WHAT THIS MEANS FOR PROVIDERS

Providers are strongly encouraged to review [QSO-20-41-ALL](#) thoroughly to ensure they are complying with emergency preparedness requirements during the ongoing Public Health Emergency. Providers are also encouraged to ensure they have adequate documentation of emergency plan activation before foregoing scheduled drills consistent with the exemption. If you have any questions or need further guidance regarding the above Guidance, please contact a member of Hancock Daniel’s [Compliance](#) team.

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