

## MDS Alert

### Resources: A Public Health Emergency Has Been Declared in My Area; Now What?

#### CMS answers your most pressing emergency MDS and Medicare billing questions

You've weathered the storm and gotten your residents evacuated safely. Now how do you stay in compliance with Medicare and Medicaid regulations and continue to get paid? Read on for CMS' answers to nursing facilities' most frequently asked questions regarding provider survey and certification procedures during a declared public health emergency.

#### 3-Day Hospital stay

Question: Will skilled nursing facilities (SNFs) in the declared public health emergency area still require residents to have a 3-day hospital stay prior to their admission?

Answer: During the emergency period, CMS will temporarily provide SNF benefits in the absence of the 3-day prior hospital qualifying stay for those SNF residents affected by the declared public health emergency to facilitate a smooth transition for SNF residents that will fit their individual care needs. This policy applies to any Medicare beneficiary who:

- was evacuated from a nursing home provider in the emergency area;
- was discharged from a hospital (in the emergency or receiving locations) in order to provide care to more seriously ill patients; or
- needs SNF care as a result of the emergency, regardless of whether that individual was in a hospital or SNF prior to the disaster.

Providers must document in the medical record both the medical need for the SNF admission and how the admission was related to the crisis created by the declared public health emergency and its aftermath.

#### MDS Medical Record Information

Question: How can providers that accept residents evacuated from a SNF obtain MDS information?

Answer: SNF residents in the public health emergency area may be evacuated to other nursing homes without their medical history. The Minimum Data Set (MDS) may be the primary source of medical record information for many of these residents. Providers accepting such residents may submit requests for consideration to obtain information available on the residents' MDS record by contacting the QIES Help Desk at 888-477-7876.

#### MDS Assessment Requirements

Question: What are the requirements for filling out an MDS assessment?

Answer: Under normal circumstances, or absent implementation of an 1135(b) waiver, a provider is required to complete an MDS assessment of a resident within 14 days of admission to the facility or when there has been a significant change in the resident's condition. If 1135(b) waiver authority exists (having been issued by the HHS Secretary following a Presidential Declaration under either the National Emergencies Act or Stafford Act and determination of a Public Health Emergency under Section 319 of the Public Health Services Act the guidance below will apply during the 1135(b) waiver period:

In the case of evacuations, the evacuating facility should determine by day 15 whether or not residents will be able to

return to the evacuating facility within 30 days from the date of the evacuation.

If and when the residents return to the evacuating facility within 30 days, the MDS cycle will continue as though the residents were never transferred. This decision places minimal disruption on the staffs' daily routine in caring for all residents. The evacuating facility would then complete the MDS according to the Long-Term Care Facility Resident Assessment Instrument User's Manual, MDS 3.0 once the residents return to its facility.

When the evacuating facility determines that the residents will not return to the facility within the 30-day time frame, the facility should discharge the resident by completing a discharge assessment whenever possible. The receiving facility will admit the resident (if the actual emergency has resolved, they may also offer alternative choices of other available facilities). Once admitted, the receiving facility will complete an admission MDS (and/or a 5-day MDS) as per the federal participation requirements. The MDS cycle will begin as of the admission date. The discharge/admission date must occur within the previously mentioned 30-day time frame.

If and when the resident returns to the evacuating facility after the 30-day time frame, the receiving facility will discharge the resident and complete a discharge assessment. The evacuating facility will re-admit the resident. The MDS cycle will be established based on the admission assessment.

When residents are transferred to the receiving facility with an anticipated return to the evacuating facility within the 30-day time frame, the evacuating facility may bill Medicare for the services that were provided at the receiving facility. The evacuating facility is responsible for payment to the receiving facility for the services that the receiving facility provides to the evacuated residents. In these cases, the fiscal intermediary (FI) will process these claims using the evacuated facility's provider number as if the patients had not been transferred (i.e., are being provided services "under arrangement"). Specific methods for transfer of funds from one facility to another are not determined by Medicare or the FI; these financial arrangements should be made by the facilities among each other.

When a provider is having a problem meeting these requirements, they should contact their State Agency to discuss the situation and receive guidance about any extensions in meeting the required MDS assessment time frames.

#### Electronic Submission of MDS

Question: During a disaster, the electronic MDS submission may not be possible from the evacuated facilities (e.g., server is down or equipment has water damage). What should the facility do?

Answer: If the MDS database is lost or destroyed, facilities may contact the QIES Help Desk at 888-477-7876 for assistance. Note: CMS is unable to restore data unless the provider previously submitted the data to the Federal data submission system.

#### MDS Requirements for Transfers

Question: What will be the requirements for MDS completion if a resident is discharged from an evacuating facility within the 30 days? Will another admission MDS be required?

Answer: The evacuating facility should determine by day 15 whether or not residents will be able to return to the originating facility within 30 days. If the resident returns to the originating facility within the 30-day time limit, the MDS cycle will continue as though the resident was never transferred.

Source: Centers for Medicare & Medicaid Services Provider Survey and Certification Frequently Asked Questions. Declared Public Health Emergencies -- All Hazards. Health Standards and Quality Issues.

Editor's note: The full text of this document is available at:

[www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Resources.html](http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Resources.html); click on Survey and Certification All Hazards Frequently Asked Questions -- Updated 09/02/2011 (PDF, 480 KB). Or readers may e-mail the editor at [marjorie.lellis@comcast.net](mailto:marjorie.lellis@comcast.net) and request the .pdf file.

