Hurricane Harvey Frequently Asked Questions

August 28, 2017

On August 25, 2017, Hurricane Harvey hit the Texas coast and caused significant damage and flooding in numerous counties forcing many to evacuate to temporary locations.

Texas Health and Human Services (HHS) is committed to sharing pertinent Hurricane Harvey information with you as soon as it becomes available by via a Frequently Asked Questions (FAQs) document. This document will be updated as new information becomes available to assure Medicaid and CHIP providers have the tools and resources they need to provide coverage for needy residents in Texas in the aftermath of this natural disaster.

In addition to the below FAQs, HHS anticipates providing future guidance for the following topics: prior authorization requirements, managed care member redeterminations/recertifications, individual service plan requirements, Medicaid and CHIP ID card requirements, managed care plan office space requirements, and provider enrollment/re-enrollment requirements.

Federal Waivers and Modifications

1. Does the Health and Human Services Commission (HHSC) plan to apply for federal waivers as they have done for past natural disasters?

   A: On Friday, August 25, 2017, the Health and Human Services (HHS) Executive Commissioner Charles Smith sent a letter to Secretary Price, requesting a waiver from certain provisions of the Social Security Act. CMS acted quickly, approving an 1135 waiver.

   This authority, issued under Section 1135 of the Social Security Act, waives or modifies various federal provisions, including health care provider participation, certification and licensing requirements (permitting those with out of state licenses to render services in Texas), while also providing relief from specific sanctions or penalties. The waivers and modifications are retroactive to August 25th, 2017.


   On August 26, 2017, HHSC also submitted a request to the Centers for Medicare and Medicaid Services (CMS) for an 1115 waiver. CMS subsequently indicated that 1115 waiver authority may not be necessary for a couple of components detailed in the draft documents, which may be accomplished under existing regulations, and a State Plan Amendment. HHSC and CMS are working on an aggressive timeline working to finalize the agreements.
2. Governor Abbott has issued a disaster proclamation certifying that Hurricane Harvey posed a threat of imminent disaster, including severe flooding to 54 counties as of August 28, 2017. Will the federal waivers and modifications apply to the same geographical area? 
A: Federal waivers and modifications apply to the geographical area identified by the Federal Emergency Management Agency (FEMA). Those counties are periodically updated. The list can be accessed here: https://www.fema.gov/disaster/4332

Immediate Health Care Needs

3. What resources are available for Texas residents on dialysis?
A: If a Texas resident is on dialysis and needs assistance finding a dialysis provider, they may call 1.866.407.ESRD for support. If a managed care plan needs assistance in finding a dialysis provider for a member, they can contact a member of Texas’ End stage renal disease (ESRD) network directly:

Javoszia Sterling
JSterling@nw14.esrd.net

Mary Albin
Mary.Albin@alliantquality.org

Glenda Harbert
GHarbert@nw14esrd.net

4. People often forget their medicines when they evacuate and need an early refill from a pharmacy. In most cases, pharmacists may not dispense more than a 72-hour supply of medication. Is there any way a prescription can be filled sooner?
A: Yes, HHSC implemented an emergency procedure for pharmacists to follow if a prescription rejects with an error code “79” (“Refill Too Soon”), but only for individuals the pharmacist identifies as affected by Hurricane Harvey. Pharmacy staff should use their professional judgement when filling prescriptions to ensure adherence to state and federal law. HHS guidance on how to fill a prescription earlier may be found here: https://www.txvendordrug.com/hurricane-harvey

5. May pharmacists refill Schedule II medications early?
A: Yes, in the event of an emergency, a practitioner may prescribe a controlled substance telephonically and follow up within 7 days with a written prescription. The pertinent citation is as follows:

Texas Controlled Substances Act
Sec. 481.074. Prescriptions.
(b) Except in an emergency as defined by rule of the board or as provided by Subsection (o) or Section 481.075(j) or (m), a person may not dispense or administer a controlled substance listed in Schedule II without a written prescription of a practitioner on an official prescription form or without an electronic prescription that meets the requirements of and is completed by the practitioner in accordance with Section 481.075. In an emergency, a person may dispense or administer a controlled substance listed in Schedule II on the oral or telephonically communicated prescription of a practitioner. The person who administers or dispenses the substance shall:
(1) if the person is a prescribing practitioner or a pharmacist, promptly comply with Subsection (c); or
(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and include in the written record of the prescription the name, address, and Federal Drug Enforcement Administration number issued for prescribing a controlled substance in this state of the prescribing practitioner, all information required to be provided by a pharmacist under Section 481.075(e)(1), and all information required to be provided by a dispensing pharmacist under Section 481.075(e)(2).

(c) Not later than the seventh day after the date a prescribing practitioner authorizes an emergency oral or telephonically communicated prescription, the prescribing practitioner shall cause a written or electronic prescription, completed in the manner required by Section 481.075, to be delivered to the dispensing pharmacist at the pharmacy where the prescription was dispensed. A written prescription may be delivered in person or by mail. The envelope of a prescription delivered by mail must be postmarked no later than the seventh day after the date the prescription was authorized. On receipt of a written prescription, the dispensing pharmacy shall file the transcription of the telephonically communicated prescription and the pharmacy copy and shall send information to the board as required by Section 481.075. On receipt of an electronic prescription, the pharmacist shall annotate the electronic prescription record with the original authorization and date of the emergency oral or telephonically communicated prescription.

Nursing Facility Evacuations

6. Numerous Medicaid beneficiaries have been evacuated and relocated to new nursing facility.

What are the evacuating facility responsibilities?

A. During an evacuation, the evacuating facility retains responsibility for the care of their evacuated residents. As with past disasters, the evacuating facility will be responsible for payment to the accepting facility [or facilities] for the care of their residents. HHS recommends that evacuating facilities establish an agreement with the accepting facilities as soon as feasible regarding housing and care of evacuees, and for reimbursement of services the receiving facility provides to support the evacuee details.

B. The evacuating facility must monitor the care of their residents for the duration of the event, including the potential re-evacuation of a resident.

C. After residents have returned to the evacuating facility or have been discharged, the evacuating facility must complete all assessments in accordance with federal guidance.

D. Evacuating facility must bill the appropriate Medicaid managed care plan

E. After payment by the managed care plan, the evacuating facility must pay the accepting facility for their resident’s care for the duration of his/her residency at the accepting facility, per the payment agreement.

F. Be responsive to the member’s managed care plan
7. **What are the accepting facility responsibilities?**
   A. Communicate regularly with the evacuating facility on the status of their residents.
   B. Maintain records, as required, about each resident to be sent when the resident returns to the evacuating facility.
   C. Work with the evacuating facility on an informal payment agreement.
   D. Support service delivery to residents as though they are your own, and in accordance with their indicated care plans that were provided by the evacuating facility.
   E. Be responsive to the member’s managed care organization

8. **What are the managed care plan’s responsibilities?**
   A. Track and monitor members that have been evacuated.
   B. Provide support to evacuating and accepting facilities; proactively, and as needed.
   C. The managed care plan service coordinator must work with the evacuating and receiving facility to continue to meet all responsibilities outlined in contract including: addressing identified needs, assisting the member in locating providers of add-on services, and referring for any necessary services.
   D. Pay the evacuating facility for the services rendered by the accepting facility; even if the accepting facility is out-of-network or a non-Medicaid provider. Be flexible and cooperative with providers so they receive prompt and proper payment for the care delivered by both facilities.
   E. Promptly reply to inquiries and complaints from facilities and members, or their representatives. Offer dedicated contact information or e-mail box, if necessary, to facilitate disaster-related communications, even outside of normal business hours.

Out-of-State Providers

9. **Are there special provisions for out-of-state providers assisting with disaster response?**
   A. Yes, for health care providers employed by a hospital and licensed and in good standing in another state to practice in Texas the Office of the Governor in accordance with section 418.016 of the Texas Government Code, temporarily suspended all necessary statutes and rules to allow these providers to assist with the disaster response operations.

   Hospitals must submit to the applicable licensing entity each out-of-state provider’s name, provider type, state of license, and license identification number.

   This suspension is in effect until terminated by the Office of the Governor or until the Tropical Depression Harvey disaster declaration is lifted or expires.

   E-mail health care provider information (provider’s name, provider type, state of license, and license identification number) to: TMBtransition@tmb.state.tx.us