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TO: All Medicare Advantage Organizations and Part D Sponsors

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SUBJECT: Reminder of Pharmacy and Provider Access during a Federal Disaster or Other Public Health Emergency Declaration

Because of the effects of Hurricane Sandy, the President has issued disaster declarations for many States on the east coast. In addition, Secretary Kathleen Sebelius has declared a public health emergency and authorized waivers and modifications under Section 1135 of the Social Security Act for New Jersey and New York.

In this memorandum, the Centers for Medicare & Medicaid Services (CMS) reminds Medicare Advantage Organizations (MAOs) and Part D sponsors of their obligations to maintain access to the Part A/ B, supplemental Part C and Part D benefits (as applicable) for beneficiaries in these areas. Requirements related to Part A/B and supplemental Part C benefit access during a disaster or other public health emergencies are located at Chapter 4: Benefits and Beneficiary Protections (Section 160) of the Medicare Managed Care Manual (<http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/mc86c04.pdf>) and for pharmacy access at Chapter 5: Benefits and Beneficiary Protections (section 50.12) of the Prescription Drug Benefit Manual ([www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/ PartDManuals.html](http://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/PartDManuals.html)).

As with all disaster declarations, MAOs and Part D sponsors are expected to do the following for:

Part C:

- Allow Part A/B and supplemental Part C plan benefits to be furnished at specified non-contracted facilities (note that Part A/B benefits must, per 42 CFR § 422.204(b)(3), be furnished at Medicare certified facilities);
- Waive in full, requirements for gatekeeper referrals where applicable;
- Temporarily reduce plan-approved out-of-network cost sharing to in-network cost-sharing amounts; and

- Waive the 30-day notification requirement to enrollees as long as all the changes (such as reduction of cost sharing and waiving authorization) benefit the enrollee.

Part D:

- Ensure enrollees have adequate access to covered Part D drugs dispensed at out-of-network pharmacies when those enrollees cannot reasonably be expected to obtain covered Part D drugs at a network pharmacy, and when such access is not routine.
- Lift their “refill-too-soon” edits. Sponsors may exercise some operational discretion as to how these edits are lifted during a disaster or emergency as long as access to Part D drugs is provided at the point-of-sale.
- Allow an affected enrollee to obtain the maximum extended day supply, if requested and available at the time of refill.

Part D sponsors also may consider extending the implementation of their “refill-too-soon” edits past the expiration of the declaration. However, if sponsors choose to remove the edits, they need to work closely with enrollees who indicate that they are still displaced or otherwise impacted by the disaster or emergency.

Please note that the rules governing CMS’ payments to MAOs and Part D sponsors remain unchanged, and are not affected by the disaster declaration or this guidance.

Finally, we remind MAOs that under the Secretary’s section 1135 waiver authority, CMS may authorize Medicare Administrative Contractors (MACs) to pay for Part C-covered services furnished to beneficiaries enrolled in Medicare Advantage plans and seek reimbursement from MAOs for those health care services retrospectively.

A complete listing of the areas impacted by this major disaster can be found at the Disaster Federal Register Notice section on Federal Emergency Management Agency’s (FEMA’s) web site (<http://www.fema.gov/news/disasters.fema>).