

1135 Waivers and The Emergency Preparedness Rule



Purpose of 1135 Waivers

Sufficient health care items and services are available to meet the needs of Medicare, Medicaid and CHIP beneficiaries;

Health care providers that provide such services in good faith can be reimbursed for them and not subjected to sanctions for noncompliance, absent any fraud or abuse

In short:

Are CMS regulations impeding your ability to respond to or recover from a disaster?

1135 Waivers

Scope

Federal Requirements only, not state licensure

Purpose

- Allow reimbursement during an emergency or disaster even if providers can't comply with certain requirements that would under normal circumstances bar Medicare, Medicaid or CHIP payment

Duration

- End no later than the termination of the emergency period, or 60 days from the date the waiver or modification is first published unless the Secretary of HHS extends the waiver by notice for additional periods of up to 60 days, up to the end of the emergency period.

What waivers DON'T do:

- 1135 waivers are not a grant or financial assistance program
- Do not allow reimbursement for services otherwise not covered
- Do not allow individuals to be eligible for Medicare who otherwise would not be eligible
- Should NOT impact any response decisions, such as evacuations.
- Do not last forever. And appropriateness may fade as time goes on.



Examples of 1135 Waiver Authorities

Conditions of Participation

Licensure for Physicians or others to provide services in affected state

Emergency Medical Treatment and Labor Act (EMTALA)

Stark Self-Referral Sanctions

Medicare Advantage out of network providers

HIPAA

1135 Waiver Examples

EMTALA

- Request to set up Alternate Screening Locations

Critical Access Hospitals

- 42 CFR 485.620
- Requires 25-bed limit and Average Patient stays of less than 96-hours

Skilled Nursing Facilities

- SSA 1812 (f)
- Three-day prior hospitalization for SNF Patients

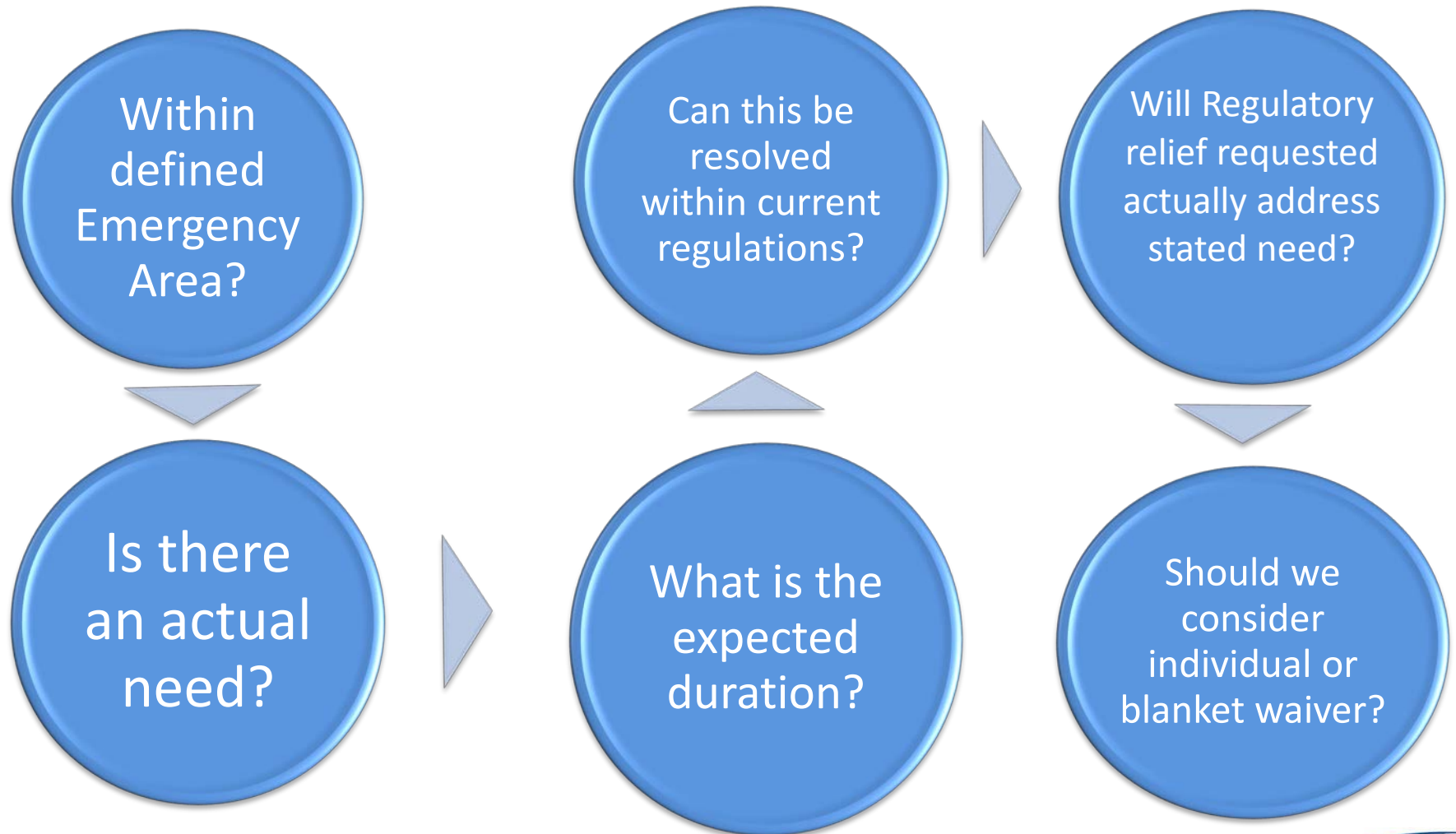
Considerations for Waiver Authority

- Scope and severity of event with specific focus on health care infrastructure
- Are there unmet needs for health care providers?
- Can these unmet needs be resolved within our current regulatory authority?

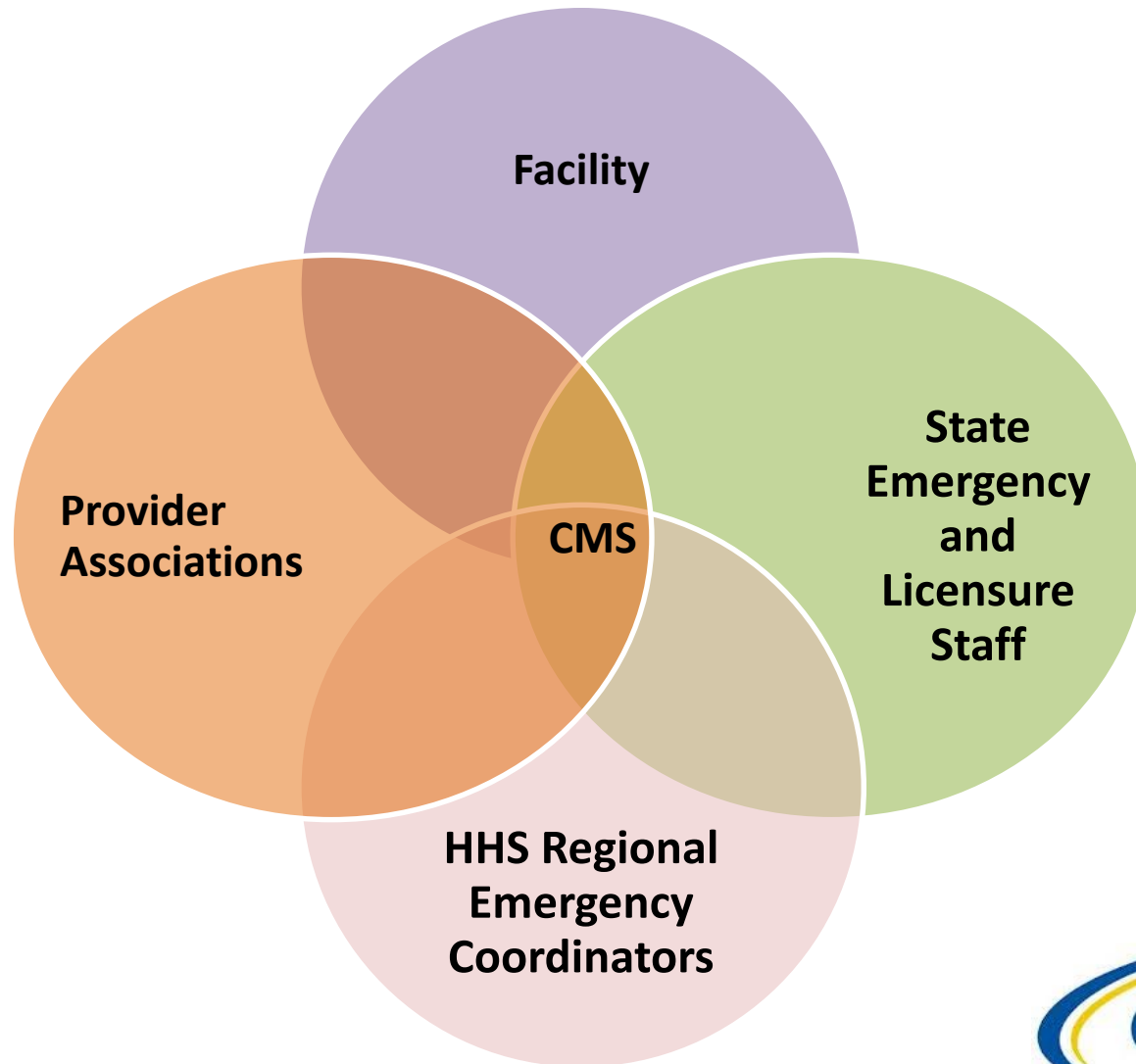
To issue waivers:



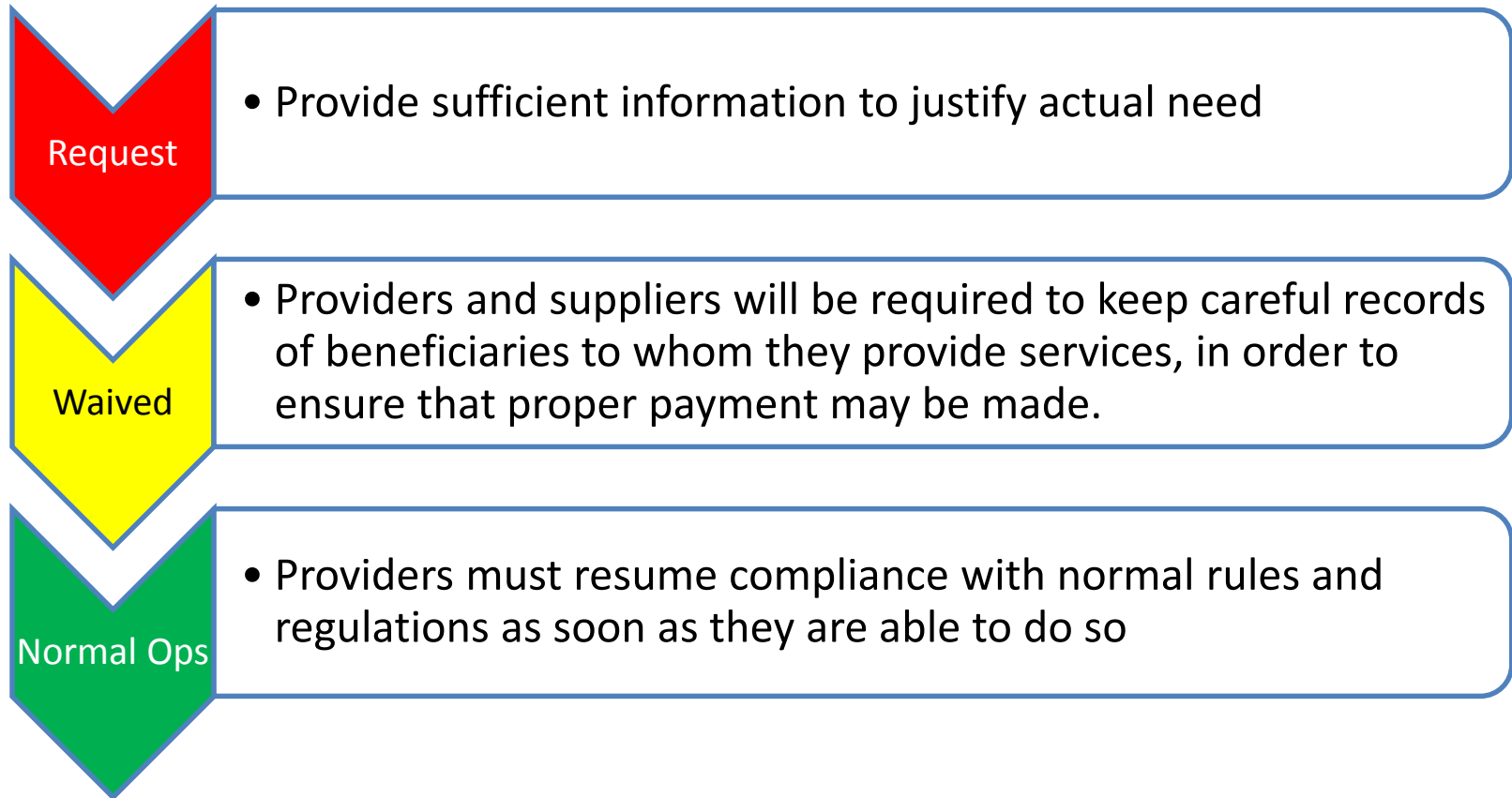
1135 Waiver Review Process



Waiver Review Inputs



Expectations of Waived Providers



Contact Information

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If you have further billing or coverage concerns, contact the Medicare Administrative Contractor (MAC)

