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| Policy [x] Procedure [x] | *Effective Date:*  *Revised:* |
| *Department: Skilled Nursing Facilities* | |
| *Subject: 1135 Waiver* | |

**POLICY**

[**INSERT PROVIDER NAME**] is committed to providing all of our stakeholders with the safest environment possible. To help meet this commitment, all skilled nursing facilities (SNF) have established a policy and procedure to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in Social Security Act programs in an emergency area during specific time periods and that providers who provide such services in good faith can be reimbursed and exempted from sanctions (absent any determination of fraud or abuse).

During an emergency it may become necessary to waive certain CMS regulations. Once a local, state, and federal emergency has been officially declared, CMS allows facilities to request a waiver of individual CMS Requirements of Participation. These waivers are allowed under Part 1135 of the Social Security Act and are referred to as an 1135 Waiver.

**PROCEDURE**

1135 Waiver Process:

CMS is requiring that all 1135 Waiver requests be electronically submitted directly to CMS, and follow the process identified below:

1. The facility requesting the 1135 Waiver will provide to the Centers for Medicare and Medicaid Services (CMS) Regional Office (RO), at a minimum the following information, using this email address: [rosfoso@cms.hhs.gov](mailto:rosfoso@cms.hhs.gov) and copy the respective local CDPH District Office.

* A letter delineating all specific, relevant federal laws or regulations for which a waiver is being sought.
* Clear reasons and justifications for the request.
* The State must have activated an emergency preparedness plan or pandemic preparedness plan in the area where the SNF is located, and
* The facility’s Emergency Operations Plan (EOP) must have been activated for the specific waiver being requested.

CMS has advised the California Department of Public Health (CDPH), Licensing and Certification Program (L&C) that L&C will be included in the review process and will be tasked with providing CMS with a recommendation for each 1135 Waiver request. In order to expedite the 1135 Waiver request process, L&C asks that all facilities electronically copy their L&C District Office with all the above information at the time it is sent to CMS, and asks facilities to include all other background documentation necessary to support the 1135 Waiver request. Because L&C will be involved in the review process it is possible that a representative from the L&C District Office or CMS may contact the facility to verify and/or clarify information in the request.

2. The facility’s 1135 Waiver request will undergo an expedited review process by the CMS National Validation Team, a committee established for the review of these requests, which will evaluate each request and make a determination as to whether the request will be approved or denied. CMS will track each request to ensure decisions are promptly returned to the requesting facility.

3. CMS will contact the facility directly to inform the facility of CMS’s decision to approve or deny all or parts of the 1135 Waiver request, and will also notify L&C of their decision.

RESOURCES:

Refer to the1135 Waiver Resources for useful for additional information on the 1135 Waiver process.