



March 16, 2021

VIA E-mail to jared@ashnha.com

Dear Mr. Kosin:

Thank you for reaching out with your questions on behalf of Alaska's hospitals, nursing homes, and home health / hospice agencies about the intersection of “blanket waivers” of certain Medicare, Medicaid, and CHIP requirements issued by the Centers for Medicare & Medicaid Services (CMS) under section 1135 of the Social Security Act and Alaska’s state public health disaster emergency declaration, which is no longer in effect.

The applicability and duration of section 1135 waivers do not depend upon any state emergency declaration. Rather, the 1135 waivers remain in effect and available nationwide during the federal public health emergency, which was declared by former Secretary Azar on January, 31, 2020 and has subsequently been renewed,¹ and which, along with the President’s declaration of a national emergency, formed the basis for authorization of these waivers. Because the “emergency area” for purposes of these section 1135 waivers is nationwide, health care providers in Alaska can continue to rely on them as necessary because of the COVID-19 pandemic.

Section 1135 of the Social Security Act authorizes waivers of certain Medicare, Medicaid, and CHIP requirements in certain circumstances, but it does not permit waivers of any state laws. For this reason, we would encourage you to coordinate with the Alaska Department of Health and Social Services on questions about the applicability of, or flexibilities available under, state law. We are aware that they have posted information on their website that indicates their intention to minimize disruption and operate under the federal flexibilities.

We hope this information is helpful to you as you work across provider types to respond to the COVID-19 pandemic. Please let us know if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Tritz".

Karen Tritz
Director
Survey and Operations Group
Center for Clinical Standards and Quality

¹ <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>.