

CMS Emergency Preparedness Rule Continuity of Operations Provisions

Compiled by Iroquois Healthcare Association

CMS Emergency Preparedness Conditions of Participation requirements for hospitals, along with CMS interpretive guidelines and FAQs relating to continuity of operations are excerpted below.

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| ➤ Normal text | CMS Emergency Preparedness Rule
(Excerpted from Final Rule full document) |
| ➤ Blue text | Interpretive Guidelines and Survey Procedures
(Excerpted from State Operations Manual Appendix Z- Interpretive Guidance) |
| ➤ Green text | Survey & Certification Group FAQs
(Excerpted from CMS Emergency Preparedness Rule FAQs) |

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

§ 482.15 Condition of participation: Emergency preparedness.

The hospital must comply with all applicable Federal, State, and local emergency preparedness requirements. The hospital must develop and maintain a comprehensive emergency preparedness program that meets the requirements of this section, utilizing an all-hazards approach. The emergency preparedness program must include, but not be limited to, the following elements:

■ Interpretive Guidelines

Facilities are required to develop and maintain an emergency preparedness plan. The plan must include all of the required elements under the standard. The plan must be reviewed and updated at least annually. The annual review must be documented to include the date of the review and any updates made to the emergency plan based on the review. The format of the emergency preparedness plan that a facility uses is at its discretion.

An emergency plan is one part of a facility's emergency preparedness program. The plan provides the framework, which includes conducting facility-based and community-based risk assessments that will assist a facility in addressing the needs of their patient populations, along with identifying the continuity of business operations which will provide support during an actual emergency. In addition, the emergency plan supports, guides, and ensures a facility's ability to collaborate with local emergency preparedness officials. This approach is specific to the location of the facility and considers particular hazards most likely to occur in the surrounding area. These include, but are not limited to:

- Natural disasters
- Man-made disasters,

- Facility-based disasters that include but are not limited to:
- Care-related emergencies;
- Equipment and utility failures, including but not limited to power, water, gas, etc;
- Interruptions in communication, including cyber-attacks;
- Loss of all or portion of a facility; and
- Interruptions to the normal supply of essential resources, such as water, food, fuel (heating, cooking, and generators), and in some cases, medications and medical supplies (including medical gases, if applicable).

When evaluating potential interruptions to the normal supply of essential services, the facility should take into account the likely durations of such interruptions. Arrangements or contracts to re-establish essential utility services during an emergency should describe the timeframe within which the contractor is required to initiate services after the start of the emergency, how they will be procured and delivered in the facility’s local area, and that the contractor will continue to supply the essential items throughout and to the end of emergencies of varying duration.

■ Survey Procedures

- Verify the facility has an emergency preparedness plan by asking to see a copy of the plan.
- Ask facility leadership to identify the hazards (e.g. natural, man-made, facility, geographic, etc.) that were identified in the facility’s risk assessment and how the risk assessment was conducted.
- Review the plan to verify it contains all of the required elements.
- Verify that the plan is reviewed and updated annually by looking for documentation of the date of the review and updates that were made to the plan based on the review.

(a) Emergency plan. The hospital must develop and maintain an emergency preparedness plan that must be reviewed, and updated at least annually. The plan must do the following:

(3) Address patient population, including, but not limited to, persons at-risk; the type of services the hospital has the ability to provide in an emergency; and continuity of operations, including delegations of authority and succession plans.

■ FAQs – Round One

Q: Can continuity of operations, delegations of authority, succession planning be included in the Emergency Operations Plan, or do you expect to see separate plans?

A: We are not requiring a specific format for how a facility should have their Emergency Plans documented and in which order. Upon survey, a facility must be able to provide documentation of these requirements in the plan and show where the plans are located.

Q: There are repeated references in the rule to business continuity, business resilience and continuity of operations, but not much clarity is provided as to how the rule differentiates these things or specific requirements. Can you provide more detail as to what will be surveyed?

A: We did not find any references to the term “business resilience” in the final rule. Business continuity and continuity of operations have the same meaning in the context of this rule. The Assistant Secretary for Preparedness and Response has developed a document that includes

information to assist facilities in planning for continuity of operations. The document may be found at: www.phe.gov/Preparedness/planning/hpp/reports/Documents/hc-coop2-recovery.pdf.

■ FAQs Round Four – Clarifications & Definitions

Business Impact Analysis (BIAs)¹ are a method of identifying and evaluating the effects various threats/hazards may have on the ability of an organization to perform its essential functions and the resulting impact of those effects. It is through the BIA that organizations can identify problem areas (gaps, weaknesses, vulnerabilities) and in turn, organization leadership may use the BIA results to support risk management decision making. The FEMA Continuity Guidance Circular 2 July 22, 2010 https://www.fema.gov/pdf/about/org/ncp/coop/cont_guidance2.pdf.

Emergency Plan: An emergency plan is one part of a facility's emergency preparedness program and provides the framework which includes conducting facility-based and community-based risk assessments that will assist a facility in addressing patient needs along with the continuity of business operations. Additionally, a plan will support, guide and ensure a facility's ability to collaborate with local emergency preparedness officials.

■ Interpretive Guidelines

The emergency plan must also address the types of services that the facility would be able to provide in an emergency. The emergency plan must identify which staff would assume specific roles in another's absence through succession planning and delegations of authority. Succession planning is a process for identifying and developing internal people with the potential to fill key business leadership positions in the company. Succession planning increases the availability of experienced and capable employees that are prepared to assume these roles as they become available. During times of emergency, facilities must have employees who are capable of assuming various critical roles in the event that current staff and leadership are not available. At a minimum, there should be a qualified person who "is authorized in writing to act in the absence of the administrator or person legally responsible for the operations of the facility."

In addition to the facility- and community-based risk assessment, continuity of operations planning generally considers elements such as: essential personnel, essential functions, critical resources, vital records and IT data protection, alternate facility identification and location, and financial resources. Facilities are encouraged to refer to and utilize resources from various agencies such as FEMA and ASPR when developing strategies for ensuring continuity of operations. Facilities are encouraged to refer to and utilize resources from various agencies such as FEMA and ASPR when developing strategies for ensuring continuity of operations.

■ Survey Procedures

- Interview leadership and ask them to describe the following:
- The facility's patient populations that would be at risk during an emergency event;
- Strategies the facility (except for an ASC, hospice, PACE organization, HHA, CORF, CMHC, RHC, FQHC and ESRD facility) has put in place to address the needs of at-risk or vulnerable patient populations;
 - Services the facility would be able to provide during an emergency;
 - How the facility plans to continue operations during an emergency;

- Delegations of authority and succession plans.
- Verify that all of the above are included in the written emergency plan.

(b) Policies and procedures. The hospital must develop and implement emergency preparedness policies and procedures, based on the emergency plan set forth in paragraph (a) of this section, risk assessment at paragraph (a)(1) of this section, and the communication plan at paragraph (c) of this section. The policies and procedures must be reviewed and updated at least annually. At a minimum, the policies and procedures must address the following:

- (1) The provision of subsistence needs for staff and patients, whether they evacuate or shelter in place, include, but are not limited to the following:
 - (i) Food, water, medical, and pharmaceutical supplies.
 - (ii) Alternate sources of energy to maintain the following:
 - (A) Temperatures to protect patient health and safety and for the safe and sanitary storage of provisions.
 - (B) Emergency lighting.
 - (C) Fire detection, extinguishing, and alarm systems.
 - (D) Sewage and waste disposal.

■ FAQs – Round Three

Q: The rule implies that facilities need to ensure their vendors have a business continuity plan to continue to provide a supply source during times of emergency. Do you have any guidance as to what vendors need to have or what they should provide to these facilities that will make the facilities compliant?

A: Facilities are required to provide subsistence needs for staff and patients, whether they evacuate or shelter in place. Those provisions include but are not limited to: food, water, medical supplies and pharmaceutical supplies.

- (2) A system to track the location of on-duty staff and sheltered patients in the hospital's care during an emergency. If on-duty staff and sheltered patients are relocated during the emergency, the hospital must document the specific name and location of the receiving facility or other location.
- (3) Safe evacuation from the hospital, which includes consideration of care and treatment needs of evacuees; staff responsibilities; transportation; identification of evacuation location(s); and primary and alternate means of communication with external sources of assistance.
- (4) A means to shelter in place for patients, staff, and volunteers who remain in the facility.
- (5) A system of medical documentation that preserves patient information, protects confidentiality of patient information, and secures and maintains the availability of records.

■ Interpretive Guidelines

In addition to any existing requirements for patient records found in existing laws, under this standard, facilities are required to ensure that patient records are secure and readily available to support

continuity of care during emergency. This requirement does not supersede or take away any requirements found under the provider/supplier's medical records regulations, but rather, this standard adds to such policies and procedures. These policies and procedures must also be in compliance with the HIPAA, Privacy and Security Rules at 45 CFR parts 160 and 164, which protect the privacy and security of individual's personal health information.

■ Survey Procedures

- Ask to see a copy of the policies and procedures that documents the medical record documentation system the facility has developed to preserve patient information, protect confidentiality of patient information, and secure and maintain availability of records.
- (7) **The development of arrangements with other hospitals and other providers to receive patients in the event of limitations or cessation of operations to maintain the continuity of services to hospital patients.**

■ Interpretive Guidelines

Facilities are required to have policies and procedures which include prearranged transfer agreements, which may include written agreements or contracted arrangements with other facilities and other providers to receive patients in the event of limitations or cessation of operations to maintain the continuity of services to facility patients.

Facilities should consider all needed arrangements for the transfer of patients during an evacuation. For example, if a CAH is required to evacuate, policies and procedures should address what facilities are nearby and outside the area of disaster which could accept the CAH's patients. Additionally, the policies and procedures and facility agreements should include pre-arranged agreements for transportation between the facilities. The arrangements should be in writing, such as MOUs and Transfer Agreements, in order to demonstrate compliance.

■ Survey Procedures

- Ask to see copies of the arrangements and/or any agreements the facility has with other facilities to receive patients in the event the facility is not able to care for them during an emergency.
 - Ask facility leadership to explain the arrangements in place for transportation in the event of an evacuation.
- (c) **Communication plan. The hospital must develop and maintain an emergency preparedness communication plan that complies with Federal, State, and local laws and must be reviewed and updated at least annually. The communication plan must include all of the following:**
- (4) **A method for sharing information and medical documentation for patients under the hospital's care, as necessary, with other health care providers to maintain the continuity of care.**