

# DISASTER PUBLIC BENEFITS - MEDICAID

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# LEGAL AUTHORITY TO CHANGE MEDICAID DURING A DISASTER

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# Federal Authority to Change Medicaid During Disasters

Multiple federal authorities, but the main one used by states is Section 1135 of the Social Security Act (SSA).

- An emergency or disaster must be declared by the President (either under the Stafford Act or the National Emergencies Act); and
- A public health emergency must be declared by the U.S. Secretary of Health & Human Services (HHS). This permits the Secretary to modify requirements in Medicaid, Medicare and the State Children's Health Insurance Program during the emergency

Other federal authorities: Section 1115 SSA, Section 1915(c) Appendix K, SSA (long term care), Medicaid State Plan Amendments

# STATE AUTHORITY TO CHANGE MEDICAID DURING DISASTERS

General authority- Chapter 252, Florida Statutes- Confers upon the Governor the power to exercise state emergency powers. This includes:

- suspension of agency rules which “would in any way prevent, hinder, or delay necessary action in coping with the emergency.” 252.36 (5), Fla. Stat.
- directing the Department of Health and AHCA to employ measures necessary to address the emergency or comply with recommendations of such agencies.” 252.36 (7) , Fla. Stat.

Governor and Agency Executive Orders

# STATE AUTHORITY FOR PRESCRIPTION REFILLS

Section 252.358, Fla. Stat.

- During a state of emergency all health insurers and managed care organizations must waive time restrictions so insureds can get prescription re-fills in advance.

Section 465.0275, Fla. Stat.

- During a state of emergency, a pharmacist may dispense up to a 30-day supply of medications if the pharmacist is unable to readily obtain refill authorization from the prescriber and:
  - The medication is essential for “maintenance of life or the continuation of therapy in a chronic condition.”
  - Interruption of the therapy might produce “undesirable health consequences or may cause physical or mental discomfort”

# Examples of State Flexibilities

- Florida provided up to 5 months Medicaid coverage to Katrina evacuees
- Waiver of Florida Kid Care monthly premiums for enrollees in hurricane Michael disaster counties
- Expanded Medicaid eligibility after lead contamination in city water
- Expansion of covered services to address the opioid epidemic

# THANK YOU

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