



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-09-45

**DATE:** June 19, 2009

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** North Dakota and Minnesota Flooding Public Health Emergency and 1135 Waiver Termination

**Memorandum Summary**

- **Situation:** The Secretary of the U.S. Department of Health and Human Services (HHS) has determined that the public health emergency (PHE) due to severe flooding no longer exists in the States of North Dakota and Minnesota. The expiration date of the PHE in North Dakota was June 10, 2009, and June 13, 2009, in Minnesota.
- **Authority:** The 1812(f) and 1135 waiver authority also is ending concurrently with the termination dates of the PHE. The Centers for Medicare & Medicaid Services (CMS) will no longer waive or modify, to the extent necessary, certain provider requirements or timetables which were permitted during the declared public health emergency.

In March 2009, as a result of severe emergency flooding along the Red River in the States of North Dakota and Minnesota, the Acting Secretary of the U.S. Department of Health and Human Services declared that a public health emergency (PHE) existed in those States. The effective date of the PHE for North Dakota was March 13, 2009, and March 16, 2009 for Minnesota.

The public health emergency declaration under section 319 of the Public Health Service Act and section 1135 of the Social Security Act, was invoked to waive or modify certain Medicare, Medicaid requirements during the emergency period. The section 1135 waiver provides the flexibility to maintain vital health care services during this emergency.

The Secretary has determined the PHE no longer exists in North Dakota and Minnesota, and the 1135 waiver authority is ending concurrently with the termination of the public health emergency.

As a result, all program modifications described in the *CMS Response to the North Dakota and Minnesota Flooding Emergency Public Health Emergency Declaration Provider Survey and Certification Questions and Answers* document, detailing flexibilities which are permitted during the emergency period under the section 1135 waiver authority for the States of North Dakota and Minnesota PHE are no longer applicable under the following dates:

| <b>State</b> | <b>Termination Date for 1135 Waiver</b> |
|--------------|---|
| North Dakota | June 10, 2009                           |
| Minnesota    | June 13, 2009                           |

**Web sites**

To access more information about the North Dakota and Minnesota flooding activities, including the public health emergency and the section 1135 waiver declaration, see the CMS Emergency Web site at:

[http://www.cms.hhs.gov/Emergency/12\\_StormFlood.asp#TopOfPage](http://www.cms.hhs.gov/Emergency/12_StormFlood.asp#TopOfPage)

For more information regarding survey and certification emergency preparedness issues, including helpful resources and tools, and the *North Dakota and Minnesota Flooding Emergency Provider Survey and Certification Questions and Answers*, please see the Resource Page of the S&C Emergency Preparedness Website, which can be accessed at:

<http://www.cms.hhs.gov/SurveyCertEmergPrep/>.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management