

# CMS Emergency Preparedness Rule

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# Outline

- Introduction
- Background
- Centers for Medicare and Medicaid Services (CMS) Emergency Preparedness Rule
- Technical Assistance
- Looking Forward
- Questions



# Introduction

## Nivi Nair

- MD-MPH Candidate, University of Wisconsin School of Medicine and Public Health
- MPH Fieldwork
  - Office of Preparedness and Emergency Health Care (OPEHC)
  - CMS Emergency Preparedness Rule readiness



# Background



# Why Does This Matter?

- Federal Regulation
  - Requirements for providers
  - Facilitation via major players
- **Integrated, comprehensive emergency preparedness and response**



# Emergency Preparedness

- Increase patient safety during emergencies
- Establish a more coordinated response to natural and human-caused disasters
- Establish consistent emergency preparedness requirements for health care providers participating in Medicare and Medicaid



# Emergencies In Wisconsin

## 2014

- Enterovirus
- Ebola
- MERS CoV

## 2015

- Ebola
- Avian Flu
- Anthrax Lab Contamination

## 2016

- Elizabethkingia
- Zika
- Floods
- Fraser Shipyard Exposures
- Salmonella Heidelberg

## 2017

- Zika
- Seoul Hantavirus
- Floods x 3
- Manitowoc Apartment Fire
- Cambria Milling Factory Explosion



# Kickapoo River, July 2017



# Major Players

- Federal
  - CMS
  - Assistant Secretary for Preparedness and Response (ASPR)
- State
  - OPEHC, Division of Public Health
  - Division of Quality Assurance (DQA)
- Regional/Community
  - Healthcare coalitions
  - Providers/Facilities



# Federal

- CMS: sets Conditions of Participation for providers and suppliers that participate in Medicare or Medicaid
- ASPR: Funds state level emergency preparedness and response efforts
  - Worked closely with CMS on development of emergency preparedness rule.
- ASPR and CMS want coordinated emergency preparedness and response.
  - Collaboration between efforts of state, healthcare coalitions, facilities, emergency management, and other relevant parties.
  - Responsibility for compliance still rests solely with providers.



# DQA and CMS

## DQA is the State Survey Agency

- Oversees certification process in Wisconsin on behalf of CMS
- Will be conducting surveys to assess facilities' compliance with the new CMS Emergency Preparedness Rule



# OPEHC and ASPR

- ASPR administers the Hospital Preparedness Program (HPP)
- Hospital Preparedness Program (HPP)
  - Provides states (OPEHC) with grants to fund emergency preparedness capabilities
  - Only source of federal funding for health care system preparedness and response
  - Funds the healthcare coalitions



# Healthcare Coalitions (HCCs)

- Seven regional coalitions comprised of health care, public safety, and public health partners working together to make their communities safer, healthier, and more resilient
- Support communities before, during, and after disasters and other health-related crises
- Coordinate how public health, health care institutions, emergency management, and emergency medical services engage in unified responses to emergencies





# CMS Emergency Preparedness Rule



# Disclaimer

Any information provided by any of Wisconsin's emergency healthcare coalitions or their staff regarding the new Centers for Medicare & Medicaid Services (CMS) emergency preparedness rule is intended for advisory purposes only. None of the tools or assistance provided guarantees any outcome during the facility survey visits. Facilities are solely responsible for meeting CMS requirements.



# Final Rule Overview

- Centers for Medicare & Medicaid Services: Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers: New Conditions of Participation (CoP)/Conditions for Coverage (CfC)
- Published Sept 16, 2016
  - Effective Nov 15, 2016
  - Implemented by Nov 15, 2017
- Applies to all 17 provider types



# Provider Types Impacted

<b>Inpatient</b>	<b>Outpatient</b>
<b>Critical Access Hospitals (CAHs)</b>	<b>Ambulatory Surgical Centers (ASCs)</b>
<b>Hospices</b>	<b>Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services</b>
<b>Hospitals</b>	<b>Community Mental Health Centers (CMHCs)</b>
<b>Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)</b>	<b>Comprehensive Outpatient Rehabilitation Facilities (CORFs)</b>
<b>Long Term Care (LTC)</b>	<b>End-Stage Renal Disease (ESRD) Facilities</b>
<b>Psychiatric Residential Treatment Facilities (PRTFs)</b>	<b>Home Health Agencies (HHAs)</b>
<b>Religious Nonmedical Health Care Institutions (RNHCIs)</b>	<b>Hospices</b>
<b>Transplant Centers</b>	<b>Organ Procurement Organizations (OPOs)</b>
	<b>Programs of All Inclusive Care for the Elderly (PACE)</b>
	<b>Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs)</b>



# Basic Outline of Rule



# Risk Assessment and Emergency Planning

- Develop an emergency preparedness plan based on facility and community risk assessments
- Utilize an all-hazards approach
- Address patient populations, services offered for continuity of operations, and succession plans
- Collaborate with local, tribal, regional, state, and federal emergency preparedness officials



# Risk Assessment and Emergency Plan

## All-hazards:

- Integrated approach to emergency preparedness planning.
- Focuses on capacities and capabilities critical to preparedness for a full spectrum of emergencies or disasters.
- Specific to the location of the provider or supplier and considers the particular type of hazards most likely to occur in their areas.



# Policies and Procedures

- Develop emergency preparedness policies and procedures based on the emergency plan, risk assessment, and communication plan
- Address:
  - Provision of subsistence needs
  - Patient tracking
  - Evacuation and sheltering in place
  - Protection of medical documentation
  - Surge planning/volunteer use
  - Arrangements with other providers to receive patients



# Communication Plan

- Develop an emergency preparedness communication plan that complies with federal, state, and local laws
- Include:
  - Contact information for relevant partners
  - Methods to communicate essential information with relevant partners
  - Methods to share protected patient information
  - Primary and alternate means of communication



# Training and Testing Program

- Develop an emergency preparedness training and testing program based on the emergency plan, risk assessment, and communication plan
- Provide annual training on all emergency preparedness policies and procedures
- Participate annually in two exercises, one of which must be a full-scale community-based exercise



# Training and Testing Program

- Full scale exercise: any operations-based exercise (drill, functional, or full-scale exercise) that assesses a facility's functional capabilities by simulating a response to an emergency that would impact the facility's operations and their given community
  - Typically involves multiple agencies, jurisdictions, and disciplines performing functional or operational elements
  - NOT synonymous with FEMA or Homeland Security Exercise and Evaluation Program (HSEEP) full-scale exercise
- When a community-based full-scale exercise is not available, the provider may conduct a facility-based exercise.



# Training and Testing Program

If a provider experiences an emergency that activates their emergency plan, they are exempt from the requirement for a community-based full-scale exercise for one year following the event.



# Implementation

- Implementation date: November 15, 2017
- **Facilities must meet and be able to demonstrate compliance by this date.** This includes having completed training and testing requirements.
- The survey, enforcement, and citation process will be the same as is current practice for providers and suppliers.



# Interpretive Guidance

The Survey and Certification Group (SCG) has developed Interpretive Guidance for the regulation.

- Surveyors will use the Interpretive Guidance to evaluate facilities
- **Released: June 2, 2017;** available on SCG Website



# Technical Assistance



# Learn More

- Federal Register
- SCG Website:  
<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/index.html>
- ASPR TRACIE:  
<https://www.asprtracie.hhs.gov/cmsrule>
- Office of Preparedness and Emergency Health Care (DHS)
  - Toolkit
  - Website
- Healthcare Coalitions



# Healthcare Coalition Role

- **No CMS requirement for HCC participation**
- The Hospital Preparedness Program (HPP) expects health care entities that have previously not participated with HCCs to do so now
  - Opportunity to increase organizational and community effectiveness, financial stability through broader preparedness community
  - HCCs are a source of preparedness and response best practices



# Healthcare Coalition Role

## Potential assistance requests:

- Obtaining the coalition or regionally conducted hazard vulnerability analysis or risk assessments (or to be included in future assessments).
- Participating in training and exercises conducted by coalitions or coalition members.
- Using shared services, such as communication systems, patient tracking systems, and other jointly used equipment and supplies.
- Providing basic information on emergency preparedness and health care system preparedness.
- Providing technical assistance support



# OPEHC Role

- Coordinate efforts with Division of Quality Assurance (DQA)
  - Shared visions, expectations, and goals
  - Collaborative preparation
- Coordinate with healthcare coalitions
  - Prepare HCCs for upcoming rule deadline and potential spike in assistance requests
  - Establish shared expectations and boundaries
  - Provide resources – toolkits



# OPEHC Role

## Toolkits

- Specific to provider types
- Overview of regulation with some explanation (grounded in interpretive guidance provided by CMS)
- Tools and templates that may be helpful to impacted providers
- **Not intended to be exhaustive, nor a template for an emergency operations plan or emergency preparedness program**

**Intended to give facilities materials to use as a foundation for the planning needed to meet the rule**



# Toolkit Sample



## CMS EMERGENCY PREPAREDNESS RULE TOOLKIT: HOSPITALS



WISCONSIN DEPARTMENT  
of HEALTH SERVICES

P-XXXXX  
Updated: [Insert Date]

### OVERVIEW

#### General Information

On September 16, 2016, the Centers for Medicare and Medicaid Services (CMS) published new federal regulations that included updated emergency preparedness requirements for Medicare and Medicaid participating providers and suppliers. For provider specific text or a link to the full text regulation, see [Appendix A: Federal Regulation](#). These requirements fall under new conditions of participation/ conditions for coverage; if these requirements are not met, providers and suppliers risk citation and consequent loss of Medicare or Medicaid reimbursement. The regulation went into effect on November 15, 2016, and **must be implemented by November 15, 2017**.

Seventeen provider and supplier types receiving Medicare or Medicaid reimbursement must be compliant with the regulation by November 15, 2017. The provider and supplier types impacted are: Ambulatory Surgical Centers; Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services; Community Mental Health Centers; Comprehensive Outpatient Rehabilitation Facilities; Critical Access Hospitals; End-Stage Renal Disease Facilities; Home Health Agencies; Hospices (inpatient and outpatient); Hospitals; Intermediate Care Facilities for Individuals with Intellectual Disabilities; Long Term Care; Organ Procurement Organizations; Programs of All Inclusive Care for the Elderly; Psychiatric Residential Treatment Facilities; Religious Nonmedical Health Care Institutions; Rural Health Clinics and Federally Qualified Health Clinics; and Transplant Centers.

The regulation requires affected providers and suppliers to comply with all applicable Federal, State, and local emergency preparedness requirements. The regulation also requires providers and suppliers to develop and maintain a comprehensive emergency preparedness program, utilizing an all-hazards approach that includes, but is not limited to, the following domains:

- **Risk Assessment and Planning:** develop an emergency preparedness plan based on facility and community risk assessments and utilizing an all-hazards approach; address patient populations, services offered for continuity of operations, and succession plans
- **Policies and Procedures:** develop emergency preparedness policies and procedures based on the risk assessment, emergency plan, and communication plan; address subsistence needs, patient tracking, evacuation, sheltering in place, protection of medical documentation, and arrangements with other providers in the event of patient transfer
- **Communication Plan:** develop an emergency preparedness communication plan that complies with Federal, State, and local laws; include contact information for relevant partners, methods to share protected patient information, and primary and alternate means of communication
- **Training and Testing:** Develop an emergency preparedness training and testing program based on the risk assessment, emergency plan, and communication plan; provide annual training on all emergency preparedness policies and procedures; participate annually in two exercises, one of which must be a full-scale community-based exercise

A number of the CMS regulations line up with current accreditation standards for various accrediting bodies. A crosswalk for the rule and current accreditation standards can be found in [Appendix B: Emergency Preparedness Regulations Crosswalk](#).



## COMMUNICATION PLAN

Hospitals should develop and maintain an emergency preparedness communication plan that complies with Federal, State, and local laws. This communication plan should be reviewed and updated at least annually. The communication plan should include how the facility coordinates patient care within the facility, across healthcare providers, and with state and local public health departments. The communication plan should also include how the facility interacts and coordinates with emergency management agencies and systems to protect patients.

If the hospital contains a Medicare-approved transplant center, a communication plan needs to be developed and disseminated between the hospitals, organ procurement organization, and transplant programs. Transplant centers should be included in the development of their containing hospital's communication plan. This communication plan should include the responsibilities of each facility type to ensure continuity of care.

The communication plan should include the following elements:

### Contact Information

The communication plan should include both names and contact information for the following:

- Staff
- Entities providing services under arrangement
- Patients' physicians
- Other hospitals and critical access hospitals
- Volunteers

The communication plan should also include contact information for the following:

- Federal, State, tribal, regional, and local emergency preparedness staff
- Other identified sources of assistance

Contact information should be readily available and accessible to leadership and staff. All contact information should be accurate and current.

Sample contact grids have been included for the following

- [External Contact Information](#)
- [Staff Contact Information](#)
- [Patients' Physicians' Contact Information](#)
- [Volunteer Contact Information](#)



## **Tools and Templates – Communication Plan**

This section contains tools, templates, and resources that may be helpful for Communication Plans.

This section contains information for the following subjects:

[External Contact Information](#)

[Staff Contact Information](#)

[Patients' Physicians' Contact Information](#)

[Volunteer Contact Information](#)

[Primary and Alternate Means of Communication](#)

[HIPAA Decision Flowchart](#)

[WI TRAC](#)



### *HIPAA Decision Flowchart*

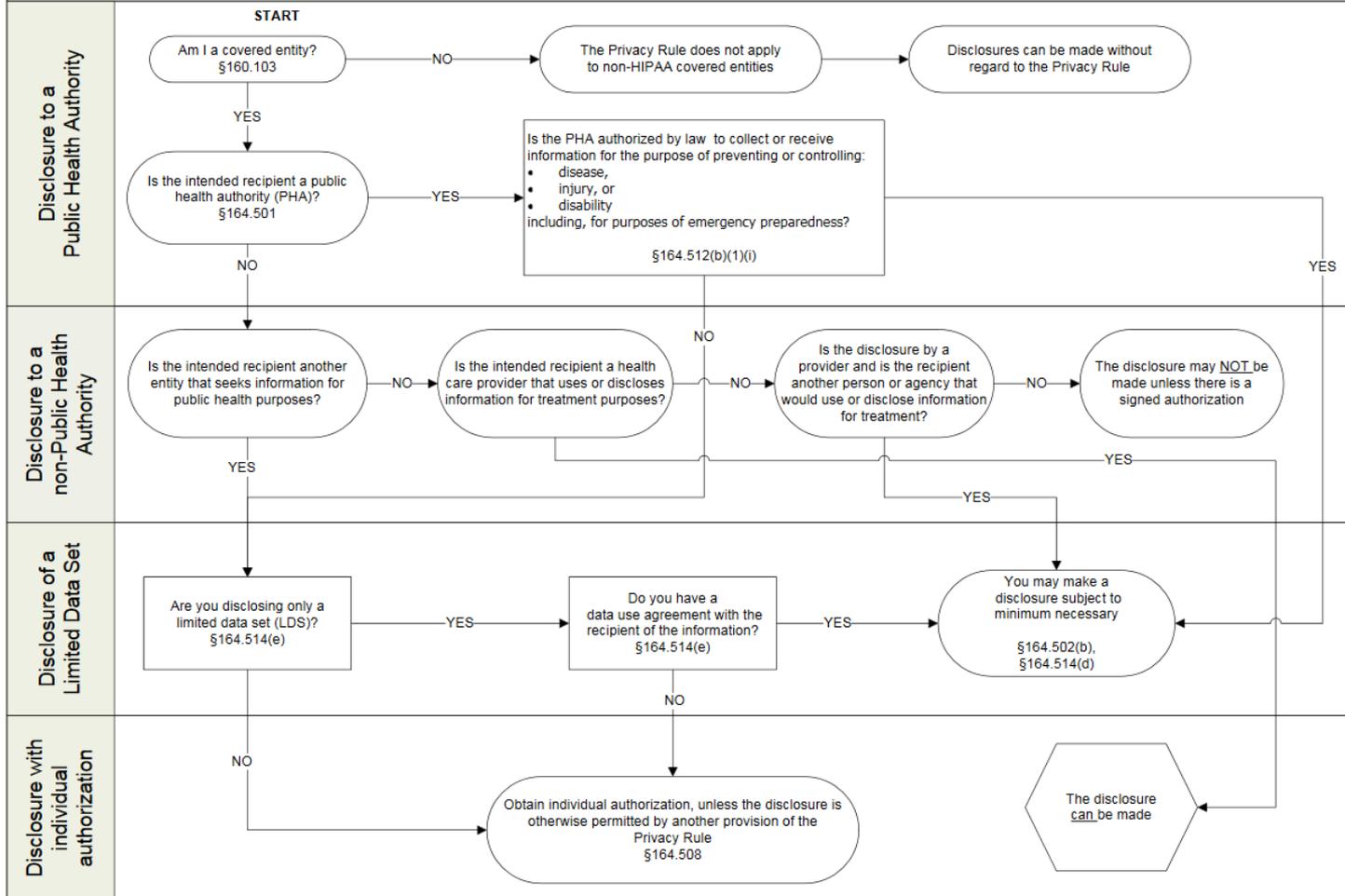
HIPAA is not waived in emergency events, so hospitals should be aware of the need to protect patient information at all times. However, certain information can be shared during emergency events if the protected health information is disclosed for public health emergency preparedness purposes. This decision flowchart can help hospitals make choices about disclosing protected health information. If there is uncertainty about the appropriateness of disclosing information, hospitals should err on the side of caution or contact appropriate authorities for guidance.

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/OCR-Emergency-Prep-HIPPA-Disclose.pdf>



## AT A GLANCE – May I disclose protected health information for public health emergency preparedness purposes?

(From the perspective of the source of the information)



### External Contact Information

This grid is a sample of what hospitals may create to maintain information for external contacts. Hospitals should keep updated contact information so that in an emergency event, the appropriate individual can be reached in a timely fashion. The purpose for contacting a given contact should be included, so it is clear who should be contacted for what in any given situation.



External Contacts			
Agency	Purpose for Contact	Contact Name/Title	Contact Info
Local EM Staff			
Local PH Department (EP)			
HCC			
State EM staff			
State PH Department (EP)			
State PH Department (DQA)			
Tribal EP/EM			
CMS			
ASPR			
FEMA			
Fire			
EMS			
Police			
Sherriff			
Coroner			
Ombudsman			
Other hospital(s)			
Other facilities w/ MOUs			
Entities Providing Services			
Sister Facilities			
(additional sources of assistance)			



## *WI TRAC*

WI Trac stands for Tracking, Resources, Alerts, and Communication, and is a tool that hospitals can use to alert and communicate with each other and with emergency response partners. WI Trac can be used during emergencies, but can also be used day-to-day to communicate hospital resources. WI Trac allows hospitals to communicate their occupancy status (such as beds available) and send alerts to relevant partners. WI Trac is intended primarily for hospitals, but is also available to EMS, First Responders, public health, physician offices, law enforcement, fire departments, Dispatch Centers, and Emergency Management directors. The following website provides more information about WI Trac and how to gain access to WI Trac.

<https://www.dhs.wisconsin.gov/preparedness/hospital/witrac.htm>

Additionally, below are some questions to consider when developing communication plans pertaining to sharing hospital information. These questions are not exhaustive; instead, they are intended to initiate and facilitate a conversation around necessary aspects of the communication plan.

Questions for consideration:

How are the authorities that should be notified in the event of an emergency determined?

How do the authorities vary in different types of emergency situations?

How are occupancy levels communicated during an emergency to local/state authorities?

How are supply and other needs communicated during an emergency to local/state authorities?

How does the facility convey their ability to help others to local/state authorities?

How might the means of communication differ depending on the emergency or the authorities being notified?

What redundant means of communication exist for providing this information?



## **Resources**

### **CMS Survey and Certification Website**

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/index.html>

### **ASPR TRACIE**

<https://asprtracie.hhs.gov/cmsrule>

<https://asprtracie.hhs.gov/documents/cms-ep-rule-resources-at-your-fingertips.pdf>

### **Health Care Coalitions**

<https://www.dhs.wisconsin.gov/preparedness/hospital/index.htm>

Regional map and contacts: <https://www.dhs.wisconsin.gov/preparedness/hospital/hcc-contacts.pdf>

### **Office of Preparedness and Emergency Health Care, Division of Public Health, Department of Health Services**

<https://www.dhs.wisconsin.gov/preparedness/index.htm>

### **Wisconsin Emergency Management**

<http://emergencymanagement.wi.gov/>



## APPENDICES

### Appendix A: Federal Regulation

The full text of the federal regulation can be found at:

<https://www.federalregister.gov/documents/2016/09/16/2016-21404/medicare-and-medicaid-programs-emergency-preparedness-requirements-for-medicare-and-medicaid>

Interpretive guidance for the federal regulation can be found at:

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/Advanced-Copy-SOM-Appendix-Z-EP-IGs.pdf>

This appendix contains the following subsections:

[\*Appendix A1: Federal Regulation for Hospitals\*](#)

[\*Appendix A2: Federal Regulation for Critical Access Hospitals\*](#)

[\*Appendix A3: Federal Regulation for Transplant Centers\*](#)



## **Appendix B: Emergency Preparedness Regulations Crosswalk**

This crosswalk is adapted from a crosswalk developed by the Yale New Haven Health System Center for Emergency Preparedness and Disaster Response. This crosswalk is intended to provide a high level reference to standards provided by accrediting organizations as of October 2016. This crosswalk does not reflect standards that may have been updated since then. This crosswalk is not intended to be a comprehensive interpretation of the regulation, but a reference guide.

This appendix contains the following subsections:

[Appendix B1: Hospital Emergency Preparedness Regulations Crosswalk](#)

[Appendix B2: Critical Access Hospital Emergency Preparedness Regulations Crosswalk](#)



## Appendix B1: Hospital Emergency Preparedness Regulations Crosswalk

CMS Emergency Preparedness CoP HOSPITALS	CMS EP CoP Reference	Healthcare Facilities Accreditation Program <a href="http://www.hfap.org">www.hfap.org</a>	Center for Improvement in Healthcare Quality (CIHQ) <a href="http://www.cihq.org">www.cihq.org</a>	DNV-GL Healthcare <a href="http://www.dnvglhealthcare.com">www.dnvglhealthcare.com</a>	The Joint Commission Standards <a href="http://www.jointcommission.org">www.jointcommission.org</a>	NFPA 1600	NFPA 99
October 2016	482.15	2015 v2	September 1, 2016	2014 v.11	2016	2016	2012 ed.
Require both an emergency preparedness program and an emergency preparedness plan	482.15	09.01.01 Emergency Safety & Security 24.00.12 Emergency Preparedness Plan	EP-1: Emergency Preparedness Planning	PE.6 SR. 1 EMERGENCY MANAGEMENT SYSTEM	EM.02.01.01 – General Requirements		12.2.2.3 12.2.3.2 12.4.1 12.5.1
<b>Emergency Plan</b>							
Comply with all applicable Federal, State, and local emergency preparedness requirements. The emergency plan must be reviewed and updated annually.	482.15	09.01.01 Emergency Safety & Security	EP-1: A Coordination with Federal, State, and local emergency preparedness and health authorities EP-2: Emergency Preparedness Plan		EM.02.01.01 General Requirements EM.03.01.01 (EP 2) Evaluation		12.2.3.3 12.4.1.2 12.5.3.6.1
The emergency plan must be based on and include a documented facility based and community based risk assessment utilizing an all hazards approach	482.15 (a) 1	09.00.02 Emergency Hazard Vulnerability Analysis (HVA)	EP-1: A...Risk Assessment	PE. 6 SR. 3 EMERGENCY MANAGEMENT	EM.01.01.01 (EP 2, 3, 5) – Foundation for the Emergency Operations Plan EM.03.01.01 (EP 1)	4.4.2 5.1.3 5.1.4 5.2.1	12.5.2 12.5.3.1
The emergency plan includes strategies for addressing emergency events identified by the risk assessment	482.15 (a) 2		EP-1: B. Specific response procedures	PE. 6 SR. 3 EMERGENCY MANAGEMENT	EM.01.01.01 (EP 5, 6) – Foundation for the Emergency Operations Plan	5.1.5 6.6.2	12.5.3.2 12.5.3.3
The emergency plan must address the patient population including but not limited to, persons at risk, the types of services that the facility would be able to provide in an emergency; continuity of operations, including delegations of authority and succession plans	482.15 (1) 3	09.01.01 Emergency Safety & Security	EP-2: C. Emergency Preparedness Plan		EM.02.01.01 (EP 3, 7, 8) General Requirements LD.01.04.01 (EP 11) Chief Executive Responsibilities	5.2.2.2	12.2.2.3 12.5.3.1.3 (1) 12.5.3.2.3 (11) 12.5.3.3.6
Have a process for ensuring cooperation and collaboration with local, tribal, regional, state, or federal emergency preparedness officials' efforts to maintain an integrated response during a disaster or emergency situation, including documentation of the facility efforts to contact such officials and, when applicable, its participation in collaborative and cooperative planning efforts	482.15 (a) 4	09.01.01 Emergency Safety & Security	EP-1: C. Emergency management and command structure		EM.01.01.01 (EP 3, 4, 7) Foundations for EOP EM.02.02.01 (EP 4) Communications		12.2.3.3 12.5.3.3.6 (2) (6)
<b>Policies and Procedures</b>							
Develop and implement emergency preparedness policies and procedures based on the emergency plan and communications plan. The policies and procedures must be reviewed and updated at least annually.	485.15 (b) (1) (i-ii) A-D	09.01.01 Emergency Safety & Security	EP-2: Emergency Preparedness Plan		EM.02.01.01 (EP 2) General Requirements		12.5.3.3.5 12.5.3.3.6 12.5.3.6.1



# Moving Forward

- Facilities' Emergency Preparedness Program development
  - Facilities work with HCCs
  - Present – mid-November
- Presentation: August 8
- Toolkits launch
  - September
  - Live on new (coming soon) DHS CMS Rule website
- CMS Emergency Preparedness Rule Compliance: November 15



# Watching For Toolkits

- Monitor the new DHS CMS Rule Emergency Preparedness Website
  - <https://www.dhs.wisconsin.gov/preparedness/hospital/cms.htm>
- Stay in contact with your Healthcare Coalition
  - Coordinators will be publicizing the toolkits upon release



# Conclusion

- CMS Emergency Preparedness Rule must be implemented by November 15, 2017
  - All provider types must be compliant by this time
- OPEHC creating toolkits and website as reference materials
- Providers are solely responsible for ensuring compliance with the rule
- HCCs available for technical assistance
  - Providers may ask for more information on the toolkits, community HVAs, shared communication systems, participation in exercises, etc.
  - Providers may join their HCC to engage in coordinated emergency preparedness efforts
- DQA to conduct surveys of facilities



# Questions?

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