POLICY PURPOSE

In order to comply with contractual obligations outlined by the Centers for Medicare and Medicaid Services (CMS), Medicare Advantage Organizations (MAOs) and Part D Plan sponsors must maintain access to the Part A/B, supplemental Part C, and Part D benefits when applicable for beneficiaries in areas affected in the event of a Presidential emergency declaration, a Presidential (major) disaster declaration, a declaration of emergency or disaster by a Governor, or an announcement of a public health emergency by the Secretary of Health and Human Services that affects the Troy Medicare Service Area.

The purpose of this policy is to demonstrate how Troy Health, Inc. is committed to follow this requirement.

SCOPE

This policy applies to all business areas, including First-tier, Downstream and Related Entities, that support the Medicare Advantage and Part D benefits.

REFERENCES

- Medicare Managed Care Manual Chapter 4, Section 150
- Medicare Prescription Drug Benefit Manual, Chapter 5, Section 50.12
- 42 CFR 422.100(m)
- 42 CFR 422.62(b)(4) and 423.38(c)(8)(ii) pertaining to Special Enrollment Periods for Individuals Affected by a FEMA-Declared Weather-Related Emergency or Major Disaster
- Section 30.4.4.18 of Chapter 2 (Medicare Advantage Enrollment and Disenrollment) of the Medicare Managed Care Manual.
- Section 30.3.8.17 of Chapter 3 (Eligibility, Enrollment and Disenrollment) of the Medicare Prescription Drug Benefit Manual
• 50 USC 1601 National Emergencies Act
• 42 USC 201 Public Health Service Act
• 42 USC 5121 Stafford Disaster Relief and Emergency Assistance Act
• Section 1860D-4(b)(1)(C)(iii) of the Social Security Act (requires that the Secretary’s rules on pharmacy network access “include adequate emergency access for enrollees)
• Federal Emergency Management Agency’s (FEMA’s) website - https://www.fema.gov/disasters/disaster-declarations for disaster and emergency declarations with areas impacted
• Federal Emergency Management Agency’s (FEMA) website - https://www.fema.gov/disasters/how-declared - for information about the disaster or emergency declaration process and types of declarations

RESPONSIBLE PARTIES

• Chief Compliance Officer
• Chief Executive Officer
• Chief Operating Officer
• Chief Medical Officer

DEFINITIONS

N/A

POLICY

1. In the event of a Presidential emergency declaration, a Presidential (major) disaster declaration, a declaration of emergency or disaster by a Governor, or an announcement of a public health emergency by the Secretary of Health and Human Services, but not prior to the issuance of, an 1135 waiver by the Secretary, Troy Health will:

   a. Allow Part A/B and supplemental Part C plan benefits to be furnished at specified non-contracted facilities, in accordance with 42 CFR §422.204(b)(3); (note that Part A/B benefits must, per 42 CFR § 422.204(b)(3), be furnished at Medicare-certified facilities)

   b. Waive in full any requirements for authorization and pre-notification referrals where applicable.

   a. Temporarily reduce plan-approved out-of-network cost-sharing amounts to in-network cost sharing amounts.
d. Waive the 30-day notification requirement to enrollees if all the changes (such as reduction of cost-sharing and waiving authorization) benefit the enrollee.

e. Ensure enrollees have adequate access to covered Part D drugs dispensed at out-of-network pharmacies when those enrollees cannot reasonably be expected to obtain covered Part D drugs at a network pharmacy, and when such access is not routine.

f. Provide access to Part D drugs dispensed at out-of-network pharmacies when Part D drugs at a network pharmacy cannot be obtained in accordance with Chapter 5 of the Medicare Prescription Drug Manual; and

g. Allow affected enrollees to obtain the maximum extended day supply, if requested and available at the time of refill.

h. Lift “refill-too-soon” edits. Sponsors have operational discretion as to how these edits are lifted during a disaster or emergency if access to Part D drugs is provided at the point-of-sale and may consider extending implementation of their “refill-too-soon” edits past the expiration of the declaration. However, if sponsors choose to remove the edits, they need to work closely with enrollees who indicate that they are still displaced or otherwise impacted by the disaster or emergency.

i. All changes must be uniformly provided to similarly situated enrollees who are affected by the disaster or emergency.

2. Declarations of disasters. A declaration of disaster will identify the geographic area affected by the event and may be made as one of the following:

   a. Presidential declaration of a disaster or emergency under either of the following:

      § Stafford Act

      § National Emergencies Act

   b. Secretarial declaration of a public health emergency under section 319 of the Public Health Service Act. If the President has declared a disaster as described in this section, then the Secretary may also authorize waivers or modifications under section 1135 of the Act.

   c. Declaration by the Governor of a State or Protectorate.

3. End of the disaster. The public health emergency or state of disaster ends when any of the following occur:

   a. The source that declared the public health emergency or state of disaster declares an end.

   b. CMS declares an end of the public health emergency or state of disaster.
c. 30 days have elapsed since the declaration of the public health emergency or state of disaster and no end date was identified in the issued disaster declaration.

4. If, in addition to a declaration of a disaster or emergency, the Secretary of Health and Human Services declares a public health emergency under section 319 of the Public Health Service Act, the Secretary has the right to exercise his or her waiver authority under section 1135 of the Social Security Act. If an 1135 waiver is issued, CMS will provide details of the consequent requirements and responsibilities to Troy Health. Troy Health will act in accordance with all CMS directives related to emergency declarations, permissive actions and 1135 waivers.

5. Special Enrollment Period (SEP) – A SEP exists for individuals affected by a weather-related emergency or major disaster who were unable to and did not make an election during another valid election period because of the emergency or major disaster. This includes both enrollment and disenrollment elections. Individuals will be considered “affected” and eligible for this SEP if they:

   a. Reside, or resided at the start of the incident period, in an area for which FEMA has declared an emergency or a major disaster and has designated affected counties as being eligible to apply for individual or public level assistance.

   b. Had another valid election period at the time of the incident period; and

   c. Did not make an election during that other valid election period.

   d. In addition, the SEP is available to those individuals who do not live in the affected areas but rely on help making healthcare decisions from friends or family members who live in the affected areas.

   e. The SEP is available from the start of the incident period and for 4 full calendar months after the start of the incident period. Further, an eligible beneficiary would be given one opportunity to make that missed election because of this SEP. Beneficiaries will not be expected to provide proof that they were affected by the pandemic-related emergency.

6. Troy Health will disclose its policies pertaining to the provision of benefits and payment conditions during declared emergencies and disasters to its enrollees on an annual basis and will maintain such information on the Troymedicare.com website.

7. Troy Health will maintain a business continuity plan to ensure restoration of business operations following disruptions, including emergencies. The Troy Health business continuity plan is regularly reviewed to ensure that any necessary planning for business operations disruption due to a disaster or emergency is included.
PROCEDURE


2. In the event of a Presidential major disaster, emergency declaration, or public health emergency, the Compliance Department will distribute notification to all internal business areas and all impacted delegated entities.

3. Each business area will ensure appropriate action is taken to implement the requirements communicated by the Compliance department, in accordance with this policy and state and federal laws and related regulations.

4. The Compliance Department will request confirmation of compliance from each impacted business area and will implement monitoring activities designed to validate such compliance through the duration of the emergency period.

5. Typically, the source that declared the disaster will clarify when the disaster or emergency is over. The Compliance Department will monitor communications from CMS and the relevant emergency websites to monitor start and end dates for emergency declarations.

6. A public health emergency terminates when it no longer exists or upon the expiration of the 90-day period beginning from the initial declaration, whichever occurs first.

7. For major disasters declared by the President, the Compliance Department will monitor the closure of disaster incident periods listed in the Disaster Federal Register Notice section on Federal Emergency Management Agency’s (FEMA’s) Web site www.fema.gov.

8. If a disaster or emergency time frame declared by the President has not been closed 30 days from the initial declaration, and if CMS has not indicated an end date to the disaster or emergency, Troy Health will resume normal operations 30 days from the initial declaration.

9. If Troy Health is unable to resume normal operations after 30 days or by the designated emergency end date, the Compliance Department will notify CMS.

10. In the absence of a Presidential major disaster or emergency declaration or a public health emergency, or in circumstances in which the incident period has not officially closed 30 days from the initial Presidential declaration, Troy Health may consider extending the implementation of the medical and pharmacy edits but is not required to do so. Troy Health may consider lifting the edits, for instance, in advance of an impending disaster; if Troy Health determines it appropriate to do so to ensure medical or pharmacy access.

Troy Health will consider exceptions when required policy, contract, or other rules are not met because of an emergency or disaster, including where a member is displaced from their home and is unable to obtain non-emergency medical services from a network health care provider.
ATTACHMENTS/RELATED POLICIES/STANDARD OPERATING PROCEDURES

- None

APPROVALS

Sally A. Scott

Chief Compliance Officer

10 / 31 / 2022

Date: