

Stafford Act and Possible Waivers



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President Trump declared a National Emergency under the Stafford Act on March 13, 2020. This allows the Department of Health and Human Services (HHS) to waive certain Medicare and Medicaid requirements, giving hospitals and other healthcare providers the flexibility to address COVID-19 and still receive reimbursement for services. It is unclear what requirements HHS Secretary Alex Azar will waive, but President Trump alluded in his speech to the following waivers that would directly impact hospitals in Arkansas:

- **Telehealth** – waiver or modification of the originating site requirement.
- **Nursing Home** – waiver of three-day rule, requiring three-day inpatient hospital stay before skilled nursing facility admission.
- **Critical Access Hospitals** – waiver of requirement that critical access hospitals have no more than 25 beds and an average duration of hospital stay under 96 hours.
- **Credentialing** – waiver of certain requirements related to granting physicians privileges to practice at the hospital.
- **Certified Location** – waiver of requirement that treatment area must be part of the certified hospital.

Arkansas hospitals should also expect to see the Emergency Medical Treatment and Active Labor Act (EMTALA) waivers. Such waivers would make it easier for hospitals to handle surges at the Emergency Department, by allowing hospitals to:

- Direct or relocate individuals who come to the ED to an alternative off-campus site for a medical screening exam.
- Allow for transfers of individuals with unstable medical conditions.

If enacted, these waivers would expire no later than the termination of the emergency period, or sixty days from the date the waiver is first published. Secretary Azar, however, has the authority to extend the waiver for additional periods of up to sixty days, up to the end of the emergency period.