CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 772	**Date: September 21, 2010**
	Change Request 6837

NOTE to Contractor: Transmittal 772, dated September 21, 2010, is rescinding and replacing the following change requests, CR 5099, transmittal 1020, dated 08/04/2006, CR 6146, transmittal 404, dated 11/19/08, CR 6164, transmittal 402, dated 11/19/08, CR 6174, transmittal 403, dated 11/19/08, CR 6209, transmittal 411, dated 12/05/08, CR 6256, transmittal 428, dated 01/09/09, CR 6280, transmittal 441, dated 02/13/09, CR 6284, transmittal 439, dated 02/06/09, and CR 6378, transmittal 454, dated 03/06/09.

SUBJECT: Medicare Fee-For-Service Emergency Policies and Procedures: Questions and Answers For All Types of Emergencies and Disasters; Rescission of Change Requests (CRs) 5099, 6146, 6164, 6174, 6209, 6256, 6280, 6284, and 6378.

I. SUMMARY OF CHANGES: This CR rescinds CRs 5099, 6146, 6164, 6174, 6209, 6256, 6280, 6284, and 6378. This CR also issues general instructions based on Web site posting of Emergency Preparedness Qs and As.

EFFECTIVE DATE: *November 22, 2010
IMPLEMENTATION DATE: November 22, 2010

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)
R=REVISED, N=NEW, D=DELETED-

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
N/A	

III. FUNDING:
For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs) and/or Carriers:
No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

For Medicare Administrative Contractors (MACs):
The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined

in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENT:

One-Time Notification

**Unless otherwise specified, the effective date is the date of service.*

Attachment – One-Time Notification

Pub. 100-20	Transmittal: 772	Date: September 21, 2010	Change Request: 6837

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Effective Date: November 22, 2010

Implementation Date: November 22, 2010

I. GENERAL INFORMATION

A. Background:

CRs, 5099, 6146, 6164, 6174, 6209, 6256, 6280, 6284, and 6378 were developed by the Centers for Medicare & Medicaid Services (CMS) as part of its preparedness efforts for an influenza pandemic. These CRs contained certain emergency guidance and procedures, usually in the form of an attachment of questions and answers (Q&As), that may be implemented in the event of a pandemic. The influenza-specific Q&As issued under the CRs noted above are not useful for the purpose of addressing other types of emergencies and they are being retired and replaced with generic, emergency/disaster-related Q&As. Therefore, the CRs issued to implement the influenza-specific Q&As are being rescinded.

CMS has developed, and posted to its Web site, Q&As that contain general emergency/disaster policies, procedures, and guidance for the Medicare fee-for-service (FFS) program. These Q&As supersede all previous Q&As issued pursuant to the above-cited CRs, and are written to be applicable to any declared emergency or disaster. One file contains Q&As that may be applied in any declared emergency or disaster and reflect policies and procedures that are valid under current rules. The other file contains Q&As that discuss policies and procedures that are valid only if waivers or modifications under § 1135 of the Social Security Act have been authorized and then only to the extent such waiver or modification has been granted by CMS. These Q&As retain certain emergency-specific policies and procedures for current and recent emergencies, e.g., the H1N1 influenza pandemic, but are otherwise written in generic terms.

These Q&As are located at the CMS "Emergency" Web page. The URL for that Web page is: http://www.cms.gov/Emergency/. For Q&As that may be applied in any declared emergency or disaster, the filename is – "**Emergency Q&As – no 1135 waivers required**". For Q&As that may be applied only if waivers or modifications have been granted under § 1135, the filename is – "**Emergency Q&As – applicable only when an applicable 1135 waiver has been granted"**.

Contractors will receive notice of future emergencies where 1135 waivers are in effect.

B. Policy:

1. CRs 5099, 6146, 6164, 6174, 6209, 6256, 6280, 6284, and 6378 are hereby rescinded.
2. The Q&As implemented by the aforementioned CRs are no longer in effect.
3. The Q&As posted to the CMS Web site at http://www.cms.gov/Emergency/ replace all prior versions of Medicare FFS Q&As with respect to emergency/disaster policies and procedures.
4. The Q&As in the file entitled "**Emergency Q&As – no 1135 waivers required**" are effective in any declared emergency or disaster whether or not an 1135 waiver has been granted.
    a. Policies and procedures in this file represent standard Medicare policy and should not require additional action by contractors to implement them.
5. The Q&As in the file entitled "**Emergency Q&As – applicable only when an applicable 1135 waiver has been granted**" are effective only if waivers or modifications have been authorized under § 1135, an applicable waiver or modification has

been granted to the billing provider or supplier, and the date of service to which the waiver or modification applies is within the effective dates of such waiver or modification.

a. Contractors shall implement the policies and procedures specified in the Emergency Q&As during a declared emergency or disaster where an 1135 waiver has been granted, in areas affected by such emergency or disaster, in accordance with the requirements of the Transmittal and subject to such further instructions as may be issued, including but not limited to instructions specific to each emergency or disaster.

NOTE: For the purpose of this CR, each contractor shall utilize and/or implement only those policies or instructions that are consistent with the nature of the contractor's work (e.g., a policy relating to institutional provider billing would apply to fiscal intermediaries (FI) or to the respective component of Medicare Administrative Contractors (MAC) rather than to carriers or to the respective component of MACs).

II. BUSINESS REQUIREMENTS TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
6837.1	Contractors shall note that CRs 5099, 6146, 6164, 6174, 6209, 6256, 6280, 6284, and 6378 are hereby rescinded.	X	X	X	X	X					
6837.2	CMS shall furnish notice to contractors concerning a declared emergency or disaster as may be necessary via Joint Signature Memorandum (JSM), Technical Direction Letter (TDL), or other CMS notification and/or existence of a § 1135 waiver. Contractors may receive notice from CMS for circumstances including, but not limited to: existence and/or termination of a declared emergency or disaster; existence and/or termination of a § 1135 waiver; or clarification of, changes to, or cessation of application of certain or all Q&As and Q&A documents.										CMS
6837.3	Contractors shall consider that the Q&A documents on the CMS Emergency Web page at http://www.cms.gov/Emergency/ in the file entitled "**Emergency Q&As – no 1135 waivers required**" constitute existing policy and are effective in any declared emergency or disaster with or without the presence of an 1135 waiver.	X	X	X	X	X					
6837.3.1	Upon notice from CMS, contractors shall utilize the information contained in the non-1135 waiver Q&A documents to assist them with understanding how to apply existing policy in certain emergency or disaster situations.	X	X	X	X	X					
6837.4	Contractors shall consider that the Q&A documents on the CMS Emergency Web page at http://www.cms.gov/Emergency/ in the file entitled "**Emergency Q&As – applicable only when an applicable 1135 waiver has been granted**" are effective only if waivers or modifications have been authorized under § 1135, an applicable waiver or modification has been granted to the billing provider or supplier (whether individually or as part of a class), and the date of service is within the effective dates of such waiver or modification.	X	X	X	X	X					
6837.4.1	Upon notice from CMS, contractors shall implement the policies contained in the file named in 6837.4. CMS may direct contractors to implement some or all of the policies contained therein.	X	X	X	X	X					
6837.4.2	Contractors shall implement such further instructions as described in BR 6837.4, relating to these policies, including but not limited to implementing amendments to such policies, as may be issued by CMS via a subsequent Transmittal, a Joint Signature Memorandum (JSM), a Technical Direction Letter (TDL), or other CMS notification.	X	X	X	X	X					
6837.4.3	Contractors shall, in the event of an apparent conflict between or among the policies stated in this Transmittal, or as may be stated in another emergency-related Transmittal, JSM, TDL, or other CMS	X	X	X	X	X					

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
	communication, advise their respective RO or PO, as applicable, of the apparent conflict and, until such time as the contractor is furnished with a response on the matter, construe the affected policies in such a manner as to give full effect to both/all such policies to the maximum feasible extent.										
6837.4.4	Contractors shall, in the event that one or more policies cannot be fully or timely implemented, implement those policies that can be fully and timely implemented and advise the Regional Office (RO) or Project Officer (PO), as applicable, of the nature and scope of each problem.	X	X	X	X	X					
6837.4.5	Contractors shall make retroactive adjustments as may be required to ensure correct payment to account for a retroactive declaration of an emergency or disaster, or to account for any delay in issuing or receiving notices, or to account for any delay in implementing or terminating the applicability of the policies specified in the files named in 6837.4.	X	X	X	X	X					

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
6837.5	A provider education article related to this instruction will be available at http://www.cms.hhs.gov/MLNMattersArticles/ shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X	X	X	X	X					
6837.6	Contractors shall incorporate this instruction into any educational events on the topic of Medicare fee-for-service emergency policies and procedures.	X	X	X	X	X					
6837.7	Contractors shall supplement the foregoing efforts with localized information that would benefit their provider community in participating in the Medicare program during the emergency.	X	X	X	X	X					
6837.8	Contractors shall, when communicating with the provider community concerning such emergency preparedness policies, advise the provider community to monitor both the contractor's Web site and the CMS Web site at http://www.cms.gov/Emergency/ for further guidance.	X	X	X	X	X					

IV. SUPPORTING INFORMATION

Section A: For any recommendations and supporting information associated with listed requirements, use the box below: N/A

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: For all other recommendations and supporting information, use this space: N/A

V. CONTACTS

Pre-Implementation Contact(s): Felicia Rowe at felicia.rowe@cms.hhs.gov or 410-786-5655

Post-Implementation Contact(s): Your appropriate Contractor Manager or Project Officer (PO). Contractor Managers and POs shall notify the pre-implementation contact concerning contractors who have issues with any of the following: the implementation of any policy, instruction, or further instruction as discussed in 6387.4.4; any apparent policy conflict as discussed in 6837.4.3; or any other issue related to utilization and/or implementation of the policies and instructions given in the Q&A documents referenced in 6837.3 and 6837.4.

VI. FUNDING

Section A: For *Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs),* and/or *Carriers*:

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

Section B: *For Medicare Administrative Contractors (MACs)*:

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.