

## COVID-19 FAQ

### **13. When should I use the “CR” modifier on an ambulance claim?**

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Answer: There are limited circumstances when the CR modifier is appropriate on an ambulance claim. To fully understand the appropriate use of the CR modifier, it is essential to understand the history behind it, and how the guidance has evolved.

The CR modifier was developed by CMS as part of the response to Hurricane Katrina in 2005. From that time until August 31, 2009, use of the CR modifier was entirely discretionary with the billing provider or supplier. While you will still hear some suggest today that the CR modifier may be used whenever it seems to make sense, as of August 31, 2009, per Transmittal 1784 dated July 31, 2009, it no longer may be used at the provider or supplier’s discretion. Use of the CR modifier is now mandatory for applicable HCPCS codes on any claim for which Medicare Part B payment is conditioned on the presence of a “formal waiver.”

In order for the CR modifier to be required (and therefore appropriate) on an ambulance claim, the ambulance provider or supplier would have to be operating under the terms of a § 1135 waiver, which waived some specific program requirement, to permit Medicare payment in a circumstance where such payment would otherwise be barred because of noncompliance with the requirement being waived or modified. Use of the CR modifier is required when an item or service is impacted by an emergency or disaster **and Medicare payment for such item or service is conditioned on the presence of a “formal waiver”** (emphasis added).

The Medicare Claims Processing Manual, Chapter 38 §10 states,

In the event of a disaster or emergency, CMS will issue specific guidance to MACs via one or more Technical Direction Letter (TDL) that will contain a summary of the Secretary’s declaration (if any); specify the geographic areas affected by any declarations of a disaster or emergency; specify what formal waivers and/or informal waivers, if any, have been authorized; specify the beginning and end dates that apply to the use of the DR condition code and/or the CR modifier; and specify what other uses of the condition code and/or modifier, if any, will be mandatory for the particular disaster/emergency.

On May 1st, 2020, CMS released an FAQ document that announced staffing waivers to allow ambulances to be staffed at a level approved by the State, even in cases where those staffing levels would be below the levels of certification required by Medicare under 42 CFR § 410.41(b). The staffing waiver FAQs are available [here](#).

The new staffing FAQ specifically notes that “pursuant to 42 U.S.C. 1320b-5(b)(2), Medicare is waiving the requirement at 42 CFR § 410.41(b)...” Since 42 USC 1320b-5 is within Social Security Act 1135, this

constitutes an “1135 waiver.” Thus, these staffing exceptions are specifically 1135 waivers for which the CR modifier can be applied. Thus, it appears the CR modifier should be required if you are submitting a claim where the crew certification levels meet State requirements, but not Medicare requirements under 42 CFR § 410.41(b). However, ambulance services should check with their MAC for specific guidance on this issue – though keep in mind that this guidance is new enough that your MAC may not have addressed it yet. If your MAC has no specific advice on this issue, consider submitting one “test” claim with the CR modifier if your ambulance is being staffed with a “waiver” crew during the public health emergency. This will let you see how your MAC adjudicates a claim with the CR modifier before submitting multiple claims. This may help you avoid the delay and expense of having to reopen or appeal your claims.

In addition, the Medicare Claims Processing Manual, Chapter 38 §10 also states,

*“Use of the CR modifier also may be required when either the A/B MAC (A), (B), or (HHH), or DME MAC or CMS determine that such use is needed to efficiently and effectively process claims or to otherwise administer the Medicare fee-for-service program.”*

With regard to this provision, we are aware that on April 21, 2020, NGS posted a “News and Alerts” article that indicates that ambulance services are to use the CR modifier when submitting a claim “with newly approved destination modifiers”. So, while this is not a §1135 waiver situation, it does seem to be within NGS’ discretion to require it for claims processing purposes. Therefore, we would suggest that if you are submitting a claim to NGS for transport of a COVID-19 patient, and that patient was transported to a destination that would not have been a covered destination prior to this Public Health Emergency, you should include the CR modifier on your claim. The NGS article is available [here](#).