

Lessons Learned from Navigating the FEMA Public Assistance Reimbursement Process

12 Key Actions to be Taken by Hospitals Now to Optimize FEMA Reimbursement Opportunities & Mitigate Reimbursement Pitfalls

Session Overview

Lessons Learned from Navigating the FEMA Public Assistance (“PA”) Reimbursement Process

- This hour long presentation will discuss:
 - › What is FEMA Public Assistance and Why it Matters to Texas PNP Hospitals
 - › Summary Overview of FEMA Eligibility Criteria & Key Expense Categories for Hospitals
 - › Lessons Learned from Navigating the FEMA PA Reimbursement Process
 - ❖ **12 Key Actions to be Taken by Hospitals Now to Optimize FEMA Reimbursement Opportunities & Mitigate Reimbursement Pitfalls**
 - › Key Take Away Points
 - › Questions & Answers

Presenter

- Ryan J. Yokley, JD, MHA
Vice President
Advis

ryokley@advis.com

www.advis.com



- Founded in 1985, Advis is a premier legal based healthcare regulatory & operational management consulting firm located outside Chicago, IL
- With a staff of over 40, the vast majority of our consultants are attorneys by education; many having additional education and/or work experience in the healthcare industry
- We have clients in over 40 states and represent many of the country's leading health systems, medical teaching universities; as well as community hospitals & physician groups
- Advis represents over 50 hospitals throughout the state of Texas
- Advis has 15 years of experience assisting clients with obtaining FEMA funding and managing the entire reimbursement process through initial request to project close-out

Presenter

- Gary D. Shope, MPA, JD
System VP,
Risk Finance
CHRISTUS Health

gary.shope@christushealth.org

www.christushealth.org



- Based in Irving, TX, CHRISTUS Health is a Catholic-based not-for-profit health system made up of more than 600 centers, including long-term care facilities, community hospitals, clinics, and health ministries located throughout the U.S. and Latin America
- Ranked Top 10 Catholic Healthcare Systems in the U.S. & Internationally
- CHRISTUS has a significant presence in Texas, with over 250 locations of which 24 are hospitals
- CHRISTUS employs over 45,000 individuals and supports a physician staff of over 15,000
- Since 2005, CHRISTUS has filed a FEMA RPA for (5) separate TX hurricanes and to date has received more than \$6 Million in FEMA funding through the PA Program

Introduction

- **How Did We Get Here?-Advis' Introduction to FEMA**
- **Our Experiences With the Evolution of the FEMA Reimbursement Process in Texas**
 - Hurricane Katrina / Rita
 - ✓ Many Unknowns With State-Lack of Knowledge With FEMA Processes for PNPs
 - ✓ Lack of Coordination Between State & FEMA
 - ✓ Significant FEMA Staff Turnover
 - ✓ Goal to Get Hospitals Paid Promptly
 - ✓ Significant Issue With Applicant Files Being Misplaced and / or Lost
 - Hurricane Ike / Gustav
 - ✓ Tremendous Delays Between Funding & Close Out
 - ✓ Turnover Among State's Outside Advisory Consultants / Auditors
 - ✓ Assignment of Auditors Having Limited FEMA Experience / Knowledge
 - ✓ Continued FEMA Staff Turnover
 - ✓ Continued Issue with Applicant Files Being Misplaced and / or Lost
 - ✓ Interpretative Changes of FEMA Policies
 - ✓ Lack of Uniformity / Consistent Application of FEMA Policies
 - ✓ Administratively Burdensome & Time Consuming
 - ✓ Increased Federal Scrutiny on State Processes
 - ✓ Recoupment of Awarded Funds
 - Hurricane Harvey
 - ✓ Implementation of Grants Portal Allowed for Electronic Submissions and Retention of Filings
 - ✓ Significant Coordination Between State & FEMA
 - ✓ Reimbursement Process Greatly Streamlined
 - ✓ Majority of Claims Simultaneously Reviewed Between FEMA / State Prior to Funding
 - ✓ Prompt Payment and Close Out of Claims
 - ✓ Much More Pleasant Experience

Section I

**What is FEMA Public Assistance and
Why it Matters to Texas PNP Hospitals**

FEMA Public Assistance

- The FEMA Public Assistance (“PA”) Program is a federal funding program that assists reimbursing local governments and certain private non-profits providing critical services (such as hospitals) for disaster related expenses
- PA is FEMA’s largest grant program-Since 2017, FEMA has awarded over \$5 Billion Dollars through PA grants
- FEMA funding only becomes available after all other sources of funding have been exhausted (i.e. insurance)
 - ❖ ***FEMA provides a mechanism for reimbursement of disaster related expenses for which no other means of reimbursement exists-Such costs would otherwise customarily have to be absorbed solely by the hospital / health system***

Texas Hurricanes

Historical Impact & Estimated Trends

From 1980 to present, at least 70 tropical storms/hurricanes (June 1st – November 30th) have affected the State of Texas.

Costliest Hurricanes to hit the State of Texas

Date	Hurricane	Category at Landfall	Damage
August 1983	Alicia	3	\$2.6 Billion
September 2005	Rita	3	\$23.9 Billion
September 2008	Ike	2	\$35.1 Billion
August 2017	*Harvey	4	\$125 Billion

**Second costliest storm in U.S. history. Hurricane Katrina is the most costly storm to hit the U.S. which caused \$161.3 Billion in damages.*

- Scientists predict climate change will continue to result in the increased frequency of higher intensity storms
- U.S. National Oceanic & Atmospheric Administration rates the State of Texas as being the 3rd most vulnerable state to be impacted by hurricanes and the costs associated with such weather events
- As profit margins for hospitals continue to decrease, it is becoming increasingly important for healthcare organizations to maximize all available funding opportunities when recovering from disaster events

FEMA Awards Joplin, MO Hospital \$23M to Assist with Rebuilding

May 22, 2011



Today





Hurricane **UPDATE**

Hurricanes Will Continue to Impact Texas With Greater Intensity- Resulting In More Profound & Costly Damage



Hurricane Harvey in Texas

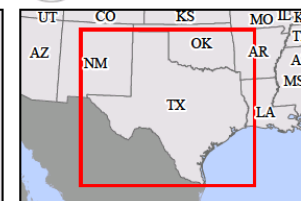
Key Statistics

- 90 related deaths
- 24 hospitals were evacuated and/or closed
- 92 hospitals reported approximately \$460 Million in disaster-related costs
- 8 PNP Health Systems filed a FEMA PA claim
- FEMA estimates it will collectively fund these 8 Health Systems approximately \$20-25 Million through the PA Program
- Reporting data indicates that over 50 TX PNP Hospitals eligible for Harvey funding did not seek FEMA reimbursement through the PA Program

FEMA-4332-DR, Texas Disaster Declaration as of 10/11/2017



FEMA



Data Layer/Map Description:
The types of assistance that have been designated for selected areas in the State of Texas.

All designated areas in the State of Texas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

Designated Counties

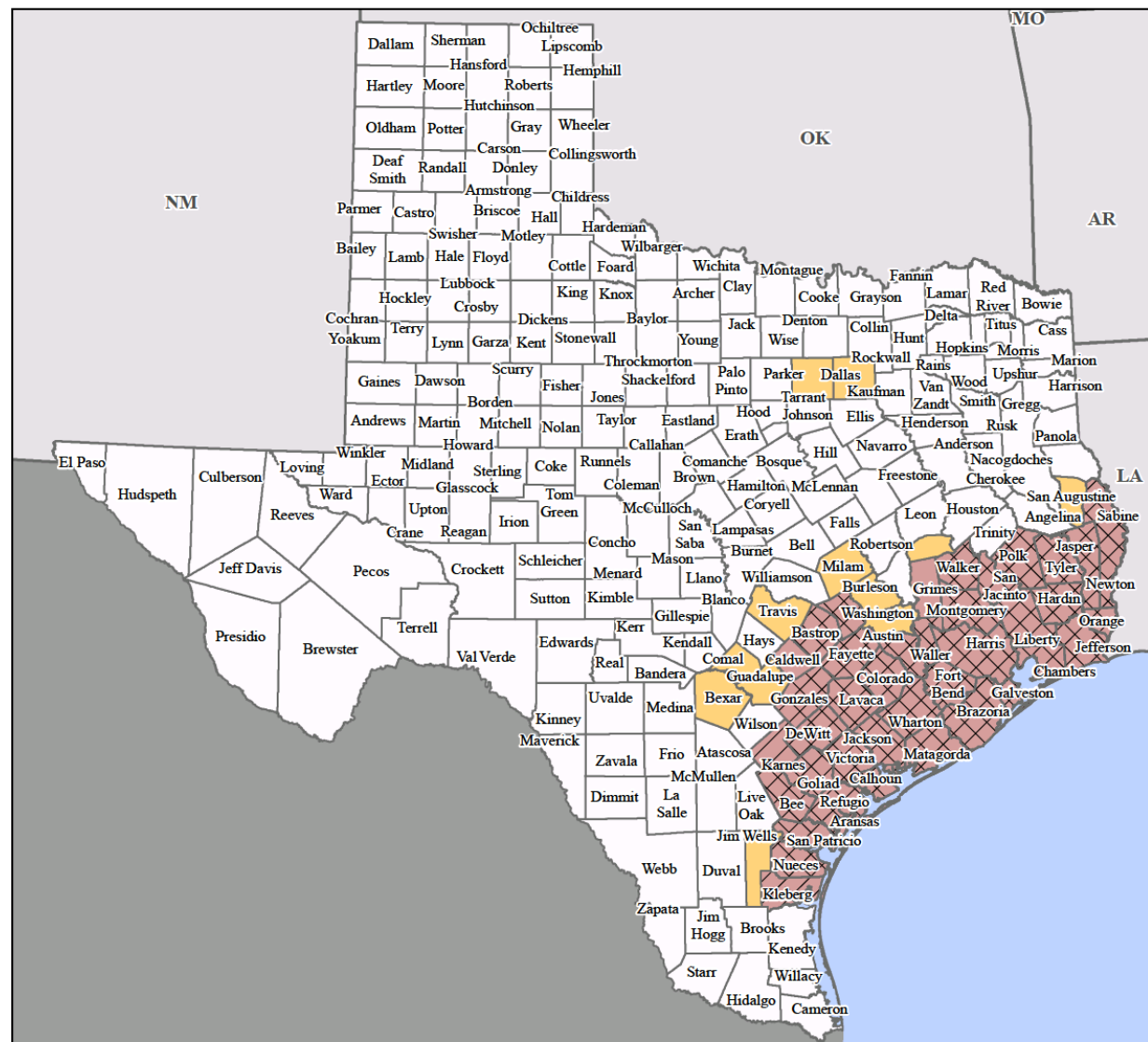
- No Designation
- Public Assistance
- Individual Assistance and Public Assistance
- Public Assistance (Category B)
- Individual Assistance and Public Assistance (Categories A and B)
- Individual Assistance and Public Assistance (Categories A - G)



0 40 80 120 160
Miles

Data Sources:

FEMA, ESRI;
Initial Declaration: 08/25/2017
Disaster Federal Registry Notice:
Amendment #10 - 10/11/2017
Datum: North American 1983
Projection: Lambert Conformal Conic





Why Do Eligible Hospitals Not Seek FEMA Reimbursement?

1. Not aware FEMA funding is available
2. Know FEMA funding is available, but:
 - Believes because they have commercial insurance coverage, hospital is made whole and there is nothing to be claimed under FEMA
 - Has a perception the process is overwhelming, time consuming, & offers nominal benefit
 - No initiative at the executive level to implement, coordinate, & manage the activities required to seek reimbursement
 - Lack of internal resources necessary to fulfill the tasks required to seek reimbursement
 - Historically had a negative FEMA experience
3. *At the time of the disaster and immediately thereafter, it just doesn't seem all that important-operating in crisis mode!

Hospitals Role During a Disaster

- Hospitals are uniquely positioned to be especially impacted by natural disasters
- They simply can't board up their windows and send everyone home
- As a key player in a community's infrastructure, hospitals must do everything they can to remain operational so they can provide critical health services to the populations served

During a Disaster- Hospitals Are Faced With 3 Crucial Tasks

1. Securing & maintaining the safety of its' patients & staff
2. Protecting & preserving the physical integrity of its' facilities & infrastructure so they can remain operational
3. Promptly respond to the health needs for the influx of patients who have been affected by the disaster



Preparing for Disaster

- The following sections of this presentation are intended to **educate hospitals** about FEMA availability, key reimbursement criteria, and to **share meaningful knowledge** gained from 15 years of FEMA reimbursement experience so that hospitals can proactively implement the actions now as **needed to optimize reimbursement / recovery opportunities** when disaster strikes

Section II

Summary Overview of FEMA Criteria & Key Expense Categories for Hospitals

FEMA Eligibility Criteria

- Incident
 - Presidentially declared emergency or disaster for designated area
- Eligible Applicants
 - States & territorial governments
 - Local governments & municipalities
 - Private non-profit organizations that provide critical services (i.e. medical) & is open / provided to the general public
- Eligible Work
 - Required as a result of the declared incident / disaster
 - Be located in the designated incident / disaster area
 - Be the legal responsibility of the applicant
 - Be completed at a reasonable cost
 - Not reimbursable by any other means

FEMA Eligible Work

For PNP Hospitals, 3 Key Categories of Eligible Work Exists:

Emergency Work

- *Work that must be completed immediately to save lives; protect public health & safety; protect property; or eliminate or lessen immediate threat of additional damage*

1. *Category A: Debris Removal & Disposal
2. *Category B: Emergency Protective Measures

Permanent Work

- *Work that is required to restore a facility to its pre-disaster design & function in accordance with applicable building codes & standards*

3. Category E: Facility Repair & Replacement

**Expense categories commonly excluded from standard property coverage*

Emergency Work

Category A-Debris Removal & Disposal *from the facility property*

- Vegetative
 - Hazardous limbs, trees, and stumps
- Geological
 - Hazardous deposits of sand, mud, gravel, rocks, boulders
- Hazardous Materials
 - Hazardous pollutants & other contaminants
- Vehicles & Other Wreckage

❖ *To be eligible, removal is required in order to mitigate risk to life & property*

❖ *Debris Removal will be revisited in the “Lessons Learned” Section*

Emergency Work

*Category B-Emergency Protective Measures to prevent damage to the facility and its contents

- Patient Evacuation & Transport
- Emergency Medical Care
- Flood Fighting / Sandbagging
- Boarding Up of Windows & Doors
- Temporary Emergency Repairs / Stabilization
- Pumping / Extraction of Water From Flooded Facilities
- Usage of Temporary Generators / Refrigeration Units / Air Conditioning Units
- Transporting & Repositioning of Equipment / Other Resources Out of Harm's Way
- Temporary Relocation of Essential Medical Services
- Security, Barricades & Temporary Fencing
- Safety Inspections / Water Testing / Etc.
- Mold Remediation Efforts

❖ *Expense category of most benefit to hospitals-customarily no other reimbursement availability for these costs*

Forced Account Labor

- Hospitals will commonly use its' own staff when completing Emergency Work and other disaster-related activities. This is defined by FEMA as “Forced Account Labor” and may be eligible for reimbursement.
 - Work performed must be required as a direct result of the disaster & in most cases, must be outside of the employees customary job description / work duty
 - Increased Labor Costs associated with patient care and administrative activities are customarily viewed as “increased operating” costs & not eligible for FEMA reimbursement
 - Eligibility of overtime, premium pay, benefits, etc. will be largely dependent on the Hospital’s pre-disaster written labor policy
 - In most instances, only OT will be eligible for FEMA reimbursement
 - Based on Advis’ experiences, eligible forced account labor expenses largely pertains to:
 - ✓ Performance of Emergency Protective Measures to Facility
 - ✓ Evacuation & Transportation of Patients
 - ✓ Increased Security Measures

❖ *Highly scrutinized expense category by FEMA*

Permanent Work

Category E- Facility Repair & Replacement

- Work required to restore a facility to its pre-disaster design (size & capacity) and function in accordance with applicable codes & standards.

❖ ***Generally speaking, Cat. E work at hospitals is customarily covered by commercial insurance and therefore, not eligible for FEMA reimbursement.***

- *Exception:* Hospital did not satisfy its' deductible
- *Exception:* Costs not covered by commercial policy (i.e. forced account labor, deductible, etc.)

Section IV

Lessons Learned:

**12 Key Actions to be Taken by Hospitals Now to
Optimize FEMA Reimbursement Opportunities &
Mitigate Reimbursement Pitfalls**

Lessons Learned

1. Know FEMA Reimbursement Availability Exists for Federally Declared Emergencies & Disasters

- Be familiar with the expense categories generally eligible for reimbursement
- Be familiar with the criteria needed to substantiate reimbursement eligibility
- Know the documentation required to receive reimbursement
 - ✓ Vendor Contracts
 - ✓ Purchase Orders
 - ✓ Invoices
 - ✓ Proof of Payment
 - ✓ Photos of Damage
- Be aware applicants generally have 30 days from date of disaster to apply for FEMA reimbursement
- ❖ ***When in doubt, proceed with filing a FEMA RPA to preserve claim opportunity-it can always be withdrawn***

Lessons Learned

2. **Know Your Insurance Policy**

- FEMA reimbursement availability only exists after all sources of reimbursement have been exhausted-Must avoid the appearance of any “double dipping”
 - Maintain copies of insurance policies in a manner so they are readily available
 - Know what’s covered
 - Know what’s not covered
 - Know the manner in which Property vs. Business Interruption is covered per policy terms
 - Know your deductible
 - Do you have a funding mechanism in place to assist with covering deductible?
 - ✓ How is it structured?
 - ✓ Off-shore captive?

Lessons Learned

3. Establish a Disaster Response & Recovery Team

- Create a multidisciplinary leadership team responsible for managing and coordinating all aspects of the hospital's disaster response and recovery efforts-It is crucial that commercial insurance and FEMA recovery efforts be simultaneously addressed by the same individuals / group of individuals.

Team Composition

- Risk Management
- Legal
- Finance
- Engineering / Maintenance

- ❖ *Make sure committee positions are filled when vacated due to staff turnover*
- ❖ *For organizations having multiple hospitals, disaster response & recovery efforts should be directed at the system level to ensure accuracy, continuity, & uniformity*

Lessons Learned

4. Establish a Separate Cost Center for Accounting Purposes to Capture all Disaster Related Expenses

- Having the ability to capture all disaster related expenses allows for a more accurate accounting of incurred costs and allows hospitals to more quickly assess the financial impact incurred (Preliminary Damage Assessment)
 - Labor
 - Materials
 - Supplies
 - Equipment
 - Pharmaceuticals
- ❖ *Simply being able to accurately and comprehensively identify all disaster related expenditures is an enormous challenge for many hospitals*

Lessons Learned

5. **Establish a formal practice for electronically capturing & cataloging; retention of all disaster related expense documentation**
 - FEMA eligible expenses are only reimbursed if sufficient documentation exists and is made available
 - Vendor Contracts
 - Purchase Orders
 - Invoices
 - Proofs of Payments
 - Photos of Incurred Damage
 - Written Narrative
 - ❖ *Most significant factor impacting hospital's ability to maximize FEMA reimbursement availability*
 - ❖ *Audit & close out can occur several years after funding-during this time files become lost & turn over of key staff is not uncommon*

Lessons Learned

6. **Establish an electronic data base of photographs of all hospital facilities (& structural components for each) that is regularly updated and include accompanying documentation substantiating good working condition**
 - It is the hospital's responsibility to demonstrate that claimed damages were caused by the declared event rather than by a failure of maintenance or some other avoidable issue unrelated to the disaster
 - Photos
 - Dated Maintenance Logs
 - Dated Inspection Surveys
 - Dated Risk Assessment Reports
 - ❖ ***Audit & close out can occur several years after funding- during this time files become lost & turn over of key staff is not uncommon***

Lessons Learned

7. Know your facilities and the structural vulnerabilities for each- Be pro-active and identify infrastructure upgrades/retrofits of interest

- Insurance customarily covers the costs to restore a damaged facility to its pre-disaster design. Through the FEMA HMGP (separate bucket of federal funding), grant money may be available to complete structural enhancements & related modifications to facilities designed to reduce the damage / impact from future events
 - Installation of Hurricane Rated Windows & Doors / Protective Barriers
 - Installation of Flood Gate / Other Flood Proofing Efforts
 - Roof Covering Replacement
 - Elevation of Electrical Switchgear & Equipment
- ❖ *FEMA awarded CHRISTUS over \$17 Million for HMGP projects (20+ projects / 6 Hospitals)*
- ❖ *Once HMGP funding becomes available, limited time exists to submit project proposals for consideration*
- ❖ *Federal procurement criteria continues to be necessary*

Lessons Learned

8. **Establish a pre-approved vendor list that is comprised of already vetted and properly procured emergency preparedness and disaster remediation contractors that specialize in servicing the unique needs of healthcare facilities**
 - When disaster strikes, available resources become scarce and the existence of exigent & emergent circumstances commonly prevents hospitals from having the ability to conduct a formal solicitation and competitive procurement for its emergency preparedness & disaster remediation work
 - Establish formal documented process for vendor vetting & selection
 - Carefully document adherence to federal procurement requirements
 - Execute a Letter of Agreement & negotiated rate sheet with each approved vendor
 - Maintain a correct & current pre-approved vendor listing available to facilities
 - At least annually review vendor listing, letters of agreement & rate sheet; and update as may be necessary
 - ❖ *Having a pre-approved vendor resource listing significantly aids hospitals with the ability to be responsive and therefore, being able to remain operational; as well as being able to substantiate compliance with reimbursement criteria*

Lessons Learned

9. **Ensure hospital's formal pay policy(s) addresses staff performance of disaster related work / work performed during an emergency; specify the pay rate / benefits to be applied**
 - Eligible forced account labor expenses will be reimbursed by FEMA in accordance with the hospital's pre-disaster written labor / HR disaster policy(s)
 - Establishment / Applicability of pay rate and benefits (Exempt & Non-Exempt Employees)
 - Applicability of premium / bonus pay for employees
 - Does not include a contingency clause that payment is subject to Federal funding
 - Is applied uniformly regardless of Presidential declaration
 - Establish formal criteria required to initiate applicability of policy

Lessons Learned

10. Have formal written & executed Mutual Aid Agreements in place with Red Cross and Area Shelters prior to event

- Commonly the Red Cross & Local Shelters will not have sufficient resources to respond to a disaster and therefore, may request assistance from area hospitals-Establishment of a Mutual Aid Agreement may assist with obtaining FEMA reimbursement for such costs
 - Agreement should be in writing and executed by the parties
 - Agreement should specify entity lacks sufficient resources & is therefore, requesting assistance from hospital
 - Agreement should generally specify the resources anticipated to be provided
 - ✓ Equipment
 - ✓ Supplies
 - ✓ Materials
 - ✓ Labor
 - Agreement should specify that resources are not being donated
 - Agreement should specify hospital will seek available Federal funding
 - Agreement should be accompanied with spreadsheets detailing resources provided
 - ✓ Item(s)
 - ✓ Quantities
 - ✓ Costs

Lessons Learned

11. Anticipate need for debris removal and be familiar with the specific federal / state requirements to be followed regarding the manner in which debris is handled and disposed of; as well as related environmental considerations

- Hospitals commonly are required to perform debris removal activities as a result of a disaster-However, many may not be aware of applicable regulatory criteria-Documentation Required
 - Debris volume, weight, pickup location & disposal location
 - Manner in which debris was handled, transported, disposed
 - Source documents (contract, load tickets, receipts, etc.)
 - Identification whether local permit was required / determined not applicable
- ❖ ***Debris removal is highly scrutinized by FEMA***

Lessons Learned

12. Memorialize all implemented disaster related practices / procedures into written hospital policies and formally adopt; ensure all relevant staff are familiar with same

- When seeking FEMA reimbursement, hospitals bear the burden of demonstrating compliance with applicable eligibility criteria
 - Policies solidify hospital intent and expectation
 - Policies provide direction to leadership & staff
 - Policies ensure consistent alignment with intended practice among facilities
 - Policies ensure continued compliance with organizational expectations after leadership turnover
 - Policies assist with demonstrating FEMA compliance

Additional Considerations

- The FEMA reimbursement process continues to evolve
- FEMA policies & interpretation thereof is ever changing
- FEMA policies can be vague & interpretation subjective
- Rarely are two separate disasters ever treated the same
- Turnover of FEMA staff during the reimbursement process is not uncommon
- Many FEMA staff are part-time employees and/or have a limited engagement with FEMA
- FEMA audit & recoupment can occur several years after disaster
- Increased scrutiny is being placed on states to ensure FEMA funding is provided in accordance with current policy; resulting in state's usage of 3rd party program administrators / auditors
- Receipt of FEMA funding does not occur without significant effort; time & expense is required
- Burden remains with hospital to substantiate eligibility / compliance
- FEMA Advocacy / Assistance from FEMA Experts is becoming increasingly important
- FEMA reimbursement may not be right for every hospital for every disaster

Section V

Key Take Away Points

Key Take Away Points

- 1. Hurricanes will continue to impact Texas with greater intensity, causing more profound & costly damage to the communities they impact**
- 2. It will continue to be increasingly important for hospitals to maximize all means of reimbursement / funding available for disaster response & recovery**
- 3. Hospitals that are proactive and take the necessary actions to put disaster related processes in place in advance of an event are best suited to benefit from available FEMA funding**
- 4. Documentation preparation, compilation, & preservation are crucial to optimizing FEMA reimbursement opportunities**
- 5. Organizations with multiple hospitals should take a systematic approach at the executive level when addressing commercial insurance & FEMA recovery efforts**



Questions?

Presented by:



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