ATTACHMENT 4: SPECIFIC GUIDANCE FOR STATE AND LOCAL GOVERNMENT DEPARTMENTS AND OFFICIALS

Introduction

The allocation of resources and services during emergency-induced situations of scarcity must be based on a sound ethical framework. Attachment 4 provides specific guidance to state and local government departments[1] and officials in Michigan to assist these entities in planning for resource and service scarcity that may arise during emergencies and disasters that impact public health. This attachment applies the general ethical guidance offered in the *Michigan Guidelines for Implementation of Crisis Standards of Care and Ethical Allocation of Scarce Medical Resource and Services During Emergencies and Disasters* (Guidelines) to the specific context of public health, emergency management, and related government settings and addresses in detail some considerations that may arise in this context. This attachment also offers a set of indicators and triggers for assessing the need for implementing contingency or crisis standards of care, as well as potential strategies for implementation of the Guidelines in state and local public health, emergency management, and related government settings.

State and local government officials should review the ethical framework presented in the Guidelines to ensure that their decision-making strategies for allocating scarce resources and services during emergencies and disasters comport with the principles and considerations outlined in the Guidelines. The Guidelines should be implemented consistent with the provisions of the Michigan Emergency Management Plan, the MDHHS Emergency Operations Plan, the State of Michigan's collaboration with neighboring states in the Federal Emergency Management Agency's Region V, and all applicable legal requirements (see Attachment 3).

This guidance is meant to be a resource for state and local government departments and officials. It is not envisioned as a formalized series of instructions but rather a set of criteria that can be employed by decision-makers in various circumstances during an emergency or disaster using their best professional discretion. Thus, the criteria offered within these Guidelines are meant to be scalable, adaptable, and functional. Some public health departments or officials working within the state or local emergency management framework may not have the capacity to implement all of the suggestions offered in this document. Others will choose to adopt different strategies that are nonetheless consistent with the ethical framework presented in the Guidelines. However, it is presumed that many government departments and officials involved with allocation of scarce medical resources during emergencies or disasters will adapt the approaches and strategies contained in this document, tailored to fit the circumstances of their specific context.

Extreme or unforeseeable circumstances may challenge the foundations of the framework. In those situations, decision-makers will be expected to use their professional training and prudence to guide allocation decisions. The criteria offered may have to be amended to address unforeseen circumstances and should be constantly reviewed and updated to incorporate new guidance, research, and best practices. Successful implementation of the Guidelines will

[1] The term "departments" is used in this document to refer to government departments, agencies, commissions, and institutional structures at the state and local levels that may make allocation decisions about scarce medical resources during emergencies and disasters.

demand ongoing deliberation, transparency, public education and input, and careful evaluation and oversight.

This guidance provides information about both the roles and processes of decision making by state and local government departments and officials in planning for and responding to circumstances where contingency or crisis standards of care may apply. It also provides substantive discussion of issues that could arise under emergencies and disasters that impact public health. However, these materials only provide a foundation and a starting point for the development of robust and adaptive policies for addressing crisis standards of care. This attachment should be used as a tool to assist in the creation of a strong infrastructure and well-designed, ethical policies for addressing resource shortages under crisis standards of care conditions. Additionally, this attachment should be used in conjunction with the other materials applied by the State of Michigan to address emergencies and disasters, including the Guidelines, other attachments, the Michigan Emergency Management Plan, and the MDHHS Emergency Operations Plan.

Background

Emergencies and disasters have often led to scarcity of medical resources and services. The history of epidemic outbreaks, natural disasters, and other mass casualty incidents has demonstrated the need to prepare for crisis standards of care across all medical and public health systems. These types of emergencies and disasters could seriously impact the state of Michigan, its health care and public health systems, transportation systems, economy, and social structure. Under situations of scarcity, government public health departments at the state and local levels likely will be faced with higher demands for services. These departments and the officials responsible for directing their activities may experience problems similar to other government agencies and health systems across the state of Michigan, including increased employee absenteeism, disruption of supply chains, and increased rates of illness and death among members of the population served by the department. Similarly, the emergency management framework at the state and local levels may need to address how to allocate scarce medical resources to members of the population that are being served during the response to an emergency or disaster.

Public health departments have important responsibilities to protect the public's health, responsibilities made harder in circumstances where there is a shortage of resources or a lack cooperation from the public. During emergency or disaster situations that generate scarcity, public health departments may face daunting challenges due to increased morbidity and mortality among members of the population and a corresponding increase in the need for public health services. Scarcity may affect public health departments directly through the limitation of agency capacity to provide essential public health services or indirectly as serious threats to public health strain the normal capacity of the agency to serve all that need assistance.

It is of the utmost importance that public health departments have the tools necessary to make ethically-appropriate decisions with regard to allocation of scarce medical resources and services. The objectives discussed in this attachment will assist state and local public health officials in both public health and emergency management settings in making important decisions that protect the lives and safety of public health workers and all members of the public.

Applicability of the Guidelines

The Guidelines outline several understandings that define their scope and purpose. The box below restates the factors described in more detail on pages 20-25 of the Guidelines:

1. Emergencies and disasters that impact public health give rise to unique challenges that can lead to, and be exacerbated by, scarcity of medical resources and services.
2. The likely conditions during emergencies—including conditions of medical resource and service scarcity—may be anticipated even in emergency circumstances that arise from sudden, extraordinary, or temporary events.
3. Emergency planners have an ethical duty to plan for and provide guidance related to the ethical allocation of scarce medical resources and services during emergencies or disasters.
4. The Guidelines apply to serious emergencies or disasters that impact public health, not everyday scarcity of medical resources and services. Therefore, the Guidelines envision allocation decisions being made in circumstances where Crisis Standards of Care are anticipated or have been implemented.
5. The Guidelines apply broadly and are meant to inform allocation decisions made by decision-makers at different levels of government and as well as the private and nonprofit sectors.
6. The Guidelines apply to allocation decisions affecting all medical resources and services that may become scarce during an emergency or disaster, including medicines, vaccines, medical equipment, medical devices, personal protective equipment, space, staff, and supportive capacity for health-related functions. However, allocation decisions will differ based on the type of resource and other circumstances.
7. The Guidelines employ ethical principles that take into account both individual health and population health.
8. The Guidelines should be implemented in ways that comply with all relevant laws at the federal, state, and local levels.

In addition to the considerations outlined above, six further understandings are applicable to the potential allocation of scarce medical resource and services by state and local public health departments and other government entities that may be involved in making decisions about the allocation of scarce resources.

9. Scarcity induced by an emergency or disaster that impacts public health may undermine the functional or operational capacity of state and local public health departments and challenge their ability to fulfill core functions. Consequently, scarcity may generate population health effects that may be much greater than those directly resulting from the effects of the scarce resource itself.
10. Decisions made by state and local public health departments and officials about scarce resource and service allocation will be integrally connected to similar allocation decisions by other government departments and officials, including those made by officials involved in the emergency management framework, and the private sector. Coordination between the public and private sectors will be integral to successful implementation of scarce resource allocation strategies.
11. The ethical obligations of state and local public health departments to support and protect population health may present distinct considerations when making allocation decisions under situations of scarcity. Additionally, the variation among local public health departments will influence the impact of public health service delivery.
12. The availability of public health data and expertise related to population health may inform allocation decisions across many other sectors.
13. State or local government decisions about scarce resource and service allocation may impact population-level health outcomes, and can exacerbate or mitigate the impact of emergencies and disasters on communities with higher social vulnerability.
14. Although the state’s primary responsibility may be to allocate resources to its residents during emergencies or disasters with resource scarcity, if state needs are met, it may be reasonable to also consider allocating resources to other states or nations. If the relevant laws, policies, and permissions allow allocation to other states or nations, and other states or nations face significantly worse emergencies or scarcities, there may be strong ethical justification for allocating resources to them. This justification proceeds from the same considerations of equity and social justice that warrant statewide allocation decisions. Further, such reallocation of resources may be compelled or incentivized by the federal government.

Ethical Framework

The Guidelines developed for the State of Michigan discuss in detail the principles and methods used to develop the ethical framework and the goals, ethical considerations, and allocation criteria to be used in making scarce resource allocation decisions during crisis standards of care. Several additional ethical considerations applicable to government departments and officials are highlighted below.

- Planning and preparation of public health and emergency management officials to respond ethically to situations of resource scarcity underlie both professional and systemic obligations to provide competent and just services to all members of the population. While decision-making regarding resource allocation within public health departments is primarily focused on population-level concerns, some public health departments provide medical services to individuals as clients and must also factor in allocation decisions affecting these groups.

- Preparing the community for the types of difficult allocation decisions that may arise through public engagement and education, supports obligations of honesty and transparency, and adds legitimacy to and accountability for these difficult decisions if they need to be made in the future.

- Distributive justice requires fair and equitable access, distribution, and opportunity to benefit from scarce resources for all people while pursuing improved outcomes for historically and currently disadvantaged populations. Allocation schemes and criteria that differ substantially across different systems and communities may result in inconsistent and inequitable outcomes. Cooperation between state and local public health departments, Medical Control Authorities, EMS system, emergency management, hospitals, county commissioners, and other government officials and private sector entities through the development of consistent allocation guidelines, by contrast, supports fairness and distributive justice. The protection of disabled and marginalized individuals by pursuing distributive justice through equitable policies in these circumstances is imperative.

- Ethically sound responses to disaster must not exacerbate, and should help ameliorate, disparities in access to care even if they cannot repair prior inequities. Planners must designate appropriate resources for the most vulnerable who will suffer the greatest impact in any disaster. Allocation strategies, for example, should consider how to best combine state and local resources according to indicators of need such as the CDC's Social Vulnerability Index.[2]

- Prudent planning to increase caches of certain items proactively or to plan for contingency strategies to steward resources, can mitigate potential shortages and is key to ethical planning. Such cache establishment will require multidisciplinary planning and leveraging of resources.

[2] Available at https://www.atsdr.cdc.gov/placeandhealth/svi/index.html.

Ethical Duties of Government to Plan, Prepare, and Coordinate

State and local government departments and officials have an ethical duty to plan, prepare, and coordinate with partners to address resource shortages that create crisis standards of care during emergencies or disasters. The Michigan Emergency Management Plan provides a detailed framework to augment state and local emergency response.

State and local public health departments also have an ethical duty to plan, prepare, and coordinate to address crisis standards of care that may occur during emergencies or disasters. At the state level, the Michigan Department of Health and Human Services already has developed a robust infrastructure for emergency response through the development of an incident command system (ICS) and continuity of operations (COOP) protocols through the MDHHS Emergency Operations Plan and liaisons with the State of Michigan Emergency Operations Center and the Community Health Emergency Coordination Center (CHECC).

MDHHS is well situated to take on a leading role in planning and implementing crisis standards of care guidance at the state level because of its expertise in public health; capacity to deliver and coordinate public health services and policy statewide; established relationships with the health care system, with federal, state, local, and tribal government entities, and with other relevant stakeholders that may be involved in a crisis standards of care responses; legal authority to protect public health; and role as the lead state department supporting Emergency Support Functions (ESFs) 6 and 8 under the National Response Framework.[3] MDHHS should consider the population health impacts of medical resource scarcity, which requires evaluating factors and implications that go beyond the impacts on individual or institutional actors.

Planning for a surge in public health need, communications, public messaging, command and control, prevention of further illness and injury, operations continuity, and vulnerable population management must take place in advance and be communicated by government departments to their employees and partners. Among other issues, state and local public health departments may wish to prepare plans to address resource allocation and continuity of operations involving mass vaccination strategies, mass distribution of medical countermeasures and other resources, emergency public health education, and assistance with fatality management.

Government departments should coordinate with other entities, organizations, and partners that participate in or are likely to be affected by scarcity in medical resources and services during emergencies and disasters. For example, while developing their plans, it is important that state and local public health officials develop a detailed understanding of emergency plans applicable in other local, regional, and state public health departments and foster constructive and ongoing relationships with those departments, as well as relevant Federal-level departments and officials. State and local public health officials also should forge ties with hospitals and other health care organizations and prehospital entities such as Emergency Medical Services (EMS), Medical Control Authorities (MCA), and regional Healthcare Coalitions to understand the capabilities of these organizations during conditions of scarcity. In addition,

[3] Emergency Support Function #6, Mass Care, Emergency Assistance, Housing, and Human Services Annex to the National Response Framework, available at https://www.fema.gov/sites/default/files/2020-07/fema_ESF_6_Mass-Care.pdf. Emergency Support Function #8, Public Health and Medical Services Annex to the National Response Framework, available at https://www.phe.gov/Preparedness/support/esf8/Pages/default.aspx.

coordination with Emergency Management officials and infrastructure through the MEMP will be essential for an effective response. Consistent and coordinated response efforts implementing crisis standards of care should be pursued in all stages of the planning and implementation process. The full guidance for EMS settings can be found in Attachment 1, for hospitals and other health care facilities in Attachment 2, and for long-term care facilities in Attachment 5.

The National Academy of Medicine has recognized three levels of emergency care: conventional, contingency, and crisis. In conventional care situations local public health departments would continue to provide routine services consistent with ordinary uses of spaces, staff, and supplies.[4] In contingency care situations local public health departments will provide services and maintain capacity that is functionally equivalent to conventional care, but may use spaces, staff, and supplies in different ways to meet the demands of the emergency.[5] During a contingency situation, regional Healthcare Coalitions and local public health departments may begin to coordinate and share resources with each other and with MDHHS. A Regional Disaster Medical Advisory Committee (RDMAC) or the State Disaster Medical Advisory Committee (SDMAC) may play a role as well. Crisis capacity implicates the use of adaptive spaces, staff, and supplies sufficient to provide the best possible population health services under the circumstances.[6] In addition to receiving support and guidance from RDMAC and SDMAC partners, state and local public health departments may also seek support from the state emergency management agency, county commissioners, private sector partners, and interstate mutual aid. State and local public health departments should utilize historical knowledge, experience, and insights of community-based organizations to augment resource allocation planning and decision-making.

During emergencies and disasters, many state and local public health departments may have limited capacity concurrently with limited capacity in other related health settings, such as hospitals. Planning should account for potential situations where public health departments would pool resources with these other entities or take steps to train and repurpose personnel and/or volunteers to expand capacity. Such guidance would include a robust plan of how, where, and what a crisis standard of care would entail and what would be expected of public health officials and employees and some potential for augmenting their capabilities through advance or “just in time” training.

[4] IOM 2012, p. 4-12.
[5] Id.
[6] Id., at p. 4-13.

Implementation

The implementation of a scarce resource allocation plan within a public health department requires public health officials to engage in several discrete steps and to plan for different circumstances that may involve conventional, contingency, and crisis standards of care.

Public health departments possess different levels of capacity for providing public health services. Therefore, plans for scarce resource allocation should account for these differences. To assist public health departments in planning for crisis standards of care, the state should establish a State Disaster Medical Advisory Committee (SDMAC) to provide recommendations on issues of scarce resource allocation to the Michigan Department of Health and Human Services, and to other state-level agencies and officials upon request. Decision makers throughout MDHHS and within other government departments and private organizations will need clear guidance regarding how to distribute resources, and the public will need to know that a just and thoughtful process is in place for making these decisions.

Local public health departments may also coordinate with other local public health departments in their region and regional Healthcare Coalitions to develop Regional Disaster Medical Advisory Committees (RDMAC). RDMACs serve several functions.

- RDMACs will work with regional Healthcare Coalitions and local public health departments to develop guidelines for crisis standards of care and scarce resource allocation applicable to the issues and capacities relevant at the regional and local levels, yet consistent with the Guidelines and additional guidance of the SDMAC.
- RMDACs will provide specific guidance to regional Healthcare Coalitions and local public health departments, when applicable, on how to prioritize specific scarce resources during an emergency or disaster that impacts public health for their populations.
- RDMACs may serve an important coordination function between local public health departments and the local emergency management system and may provide a link between the SDMAC and these local public health departments.
- RMDACs may develop training and assessment materials to improve preparedness, education, and processes for making decisions about allocation of scarce resources. These materials should be developed in conjunction with the SDMAC.

The structure of RDMACs will be important to their successful function. RDMAC members should have some overlap with members of the SDMAC to ensure knowledgeable membership with adequate expertise and training, as well as a clear link to SDMAC materials and deliberations. The SDMAC and RDMACs should include members knowledgeable in emergency response; public health; medical and nursing care; long-term care; mental and behavioral health; pediatrics; palliative care; pharmacy; human services; social determinants of health; bioethics; diversity, equity, and inclusion; and law. The membership of the SDMAC and RDMACs may also include members with other expertise as relevant to the situation being addressed.

Establishing priorities for maintaining public health capacity and equity

Plans for scarce resource allocation should establish priorities for maintaining public health capacity and ensuring that available resources are distributed equitably. Plans should consider the primary functions of public health departments and the need to both respond effectively to the emergency threat to population health and to maintain ongoing capacity for other public health priorities. This attachment does not attempt to establish a prioritization of functions as a categorical statement. However, each RDMAC or public health department should engage in planning to prioritize functions under various likely shortage scenarios. Plans also should identify strategies on how to minimize the impact of scarcity on essential public health services and how to use the essential services to minimize the impact of scarcity. Much of this planning may already be in place within existing resources such as the continuity of operations (COOP) plans in place in all public health departments. Public health departments should review their COOP plans to ensure that they address scarce resource allocation and crisis standards of care. Government departments and officials should take steps to prevent medical resource scarcity whenever possible.

Trigger Points

Indicators and triggers may be used at the state or local level to assess when an emergency or disaster that may lead to scarcity is imminent. The SDMAC and RDMACs may play an important role in assessing indicators and triggers, determining when thresholds have been met to move to contingency or crisis standards of care, and determining when conventional standards of care can be resumed.

The tables below outline potential indicators and triggers in a variety of categories of potential resource scarcity as well as potential tactics that can be used to adapt and respond to scarcity.