

Centers for Medicare and Medicaid Services (CMS) and State Waivers

More than the Wave of a Wand: Granting Waivers in a Disaster

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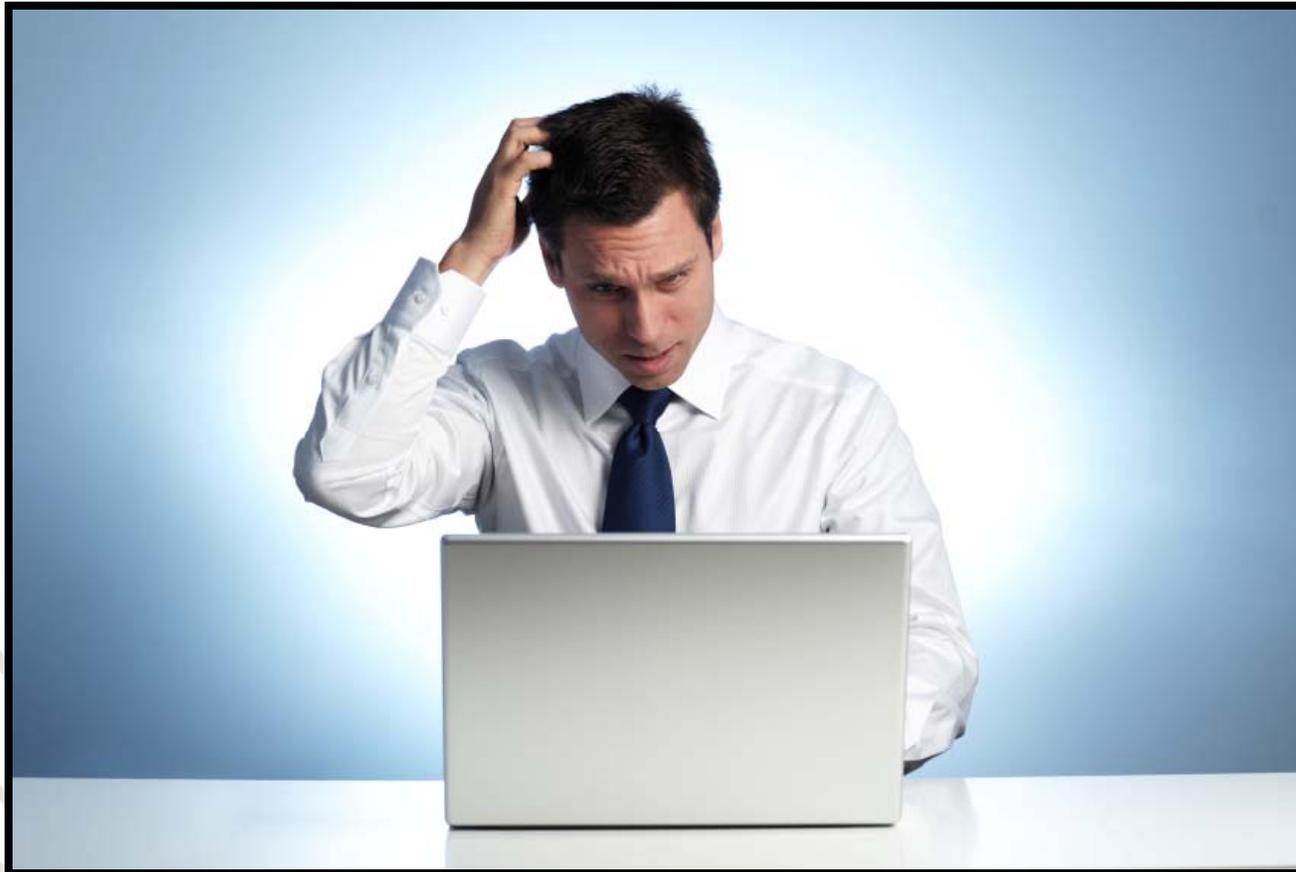
Types of Waivers

- **Arizona State Licensing**
- **Centers for Medicare and Medicaid Services**



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Poll Question



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Protocol for Requesting State Waiver

Requirements to request a state waiver include the following:

Director of the Arizona Department of Health Services can approve waiver for specific rule(s) only after the Governor has signed a State of Emergency Declaration.



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Protocol for Requesting State Waiver

State waiver is limited to:

- **Geographic Area**
 - County
 - State
 - Location of emergency- domino effect
- **Specific Events**
 - H1N1
 - Natural disaster
 - Flooding
 - Winter storm



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Protocol for Requesting State Waiver

Specific State Rules can be Waived:

- **Staffing ratio**
- **Adult & pediatrics beds**
- **Use of non-licensed bed space**



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Protocol for Requesting State Waiver

Requesting Facility Must:

Communicate the following to the County Public Health/Emergency Management so they can facilitate request for waiver to Arizona Department of Health Services (ADHS)-Division of Licensing (DLS):

- Describe why the emergency waiver is being requested.
- Identify what rule(s) are being requested to be waived.
- Provide anticipated timeframe for which the facility is requesting the waiver.

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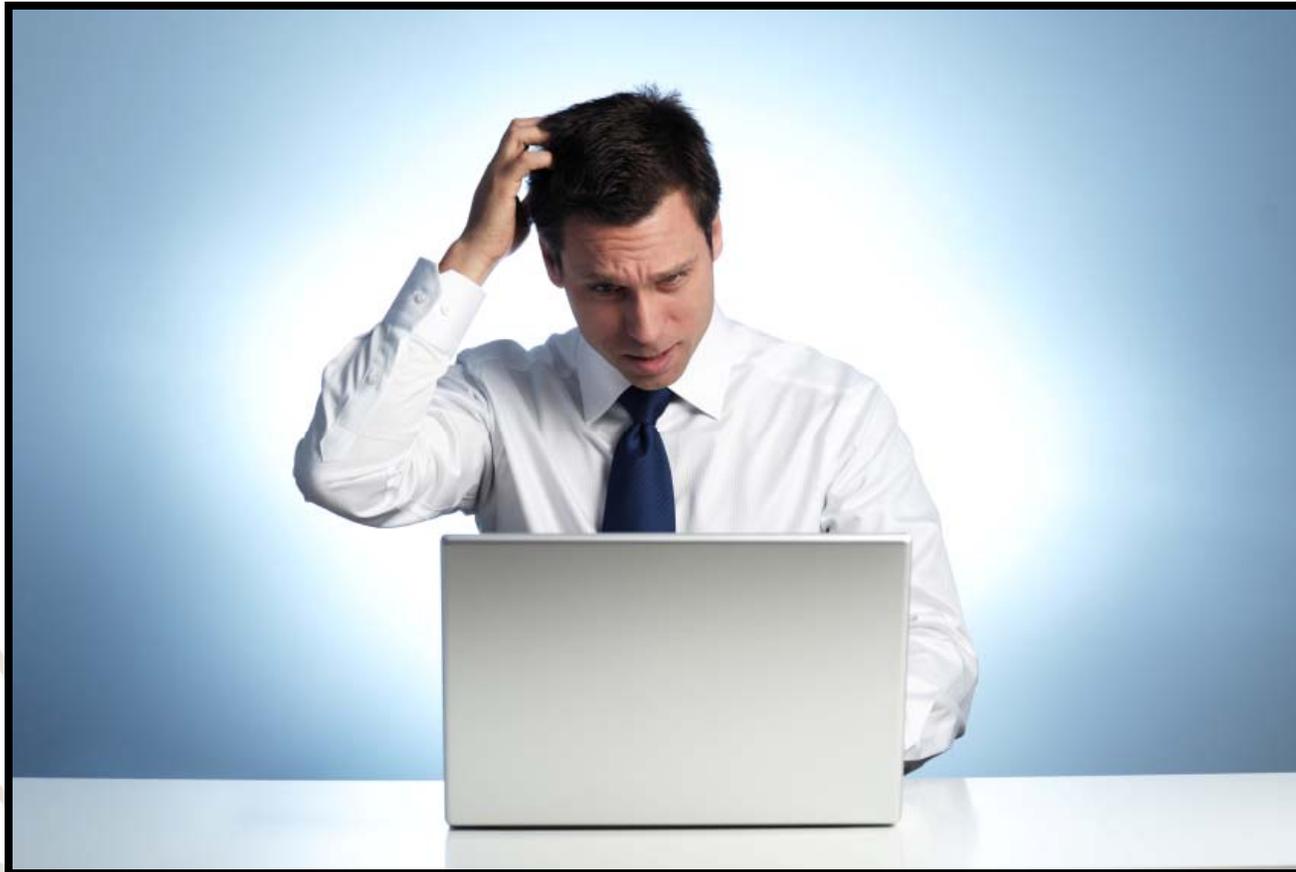
Protocol for Requesting State Waiver

- **County Health will communicate with ADHS the individual facility request and included will be the County's recommendation regarding the facility request.**
- **ADHS (DLS) will review each individual healthcare facility request and communicate back to the appropriate County the approval or denial of the waiver.**

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Protocol for Requesting State Waiver

While in the Process of Requesting a Waiver

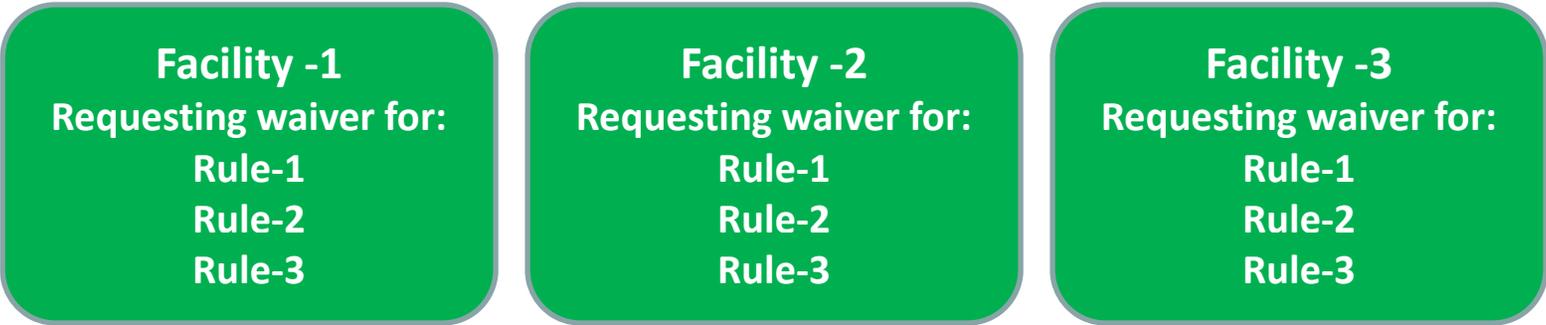
- Screening sites may be located near (but separated) from hospitals' primary EDs, either on or off hospital campus, *on a temporary basis without a waiver.*
- Patients can be directed to *Ambulatory Screening & Care* sites after MSE for continued care not requiring inpatient services.



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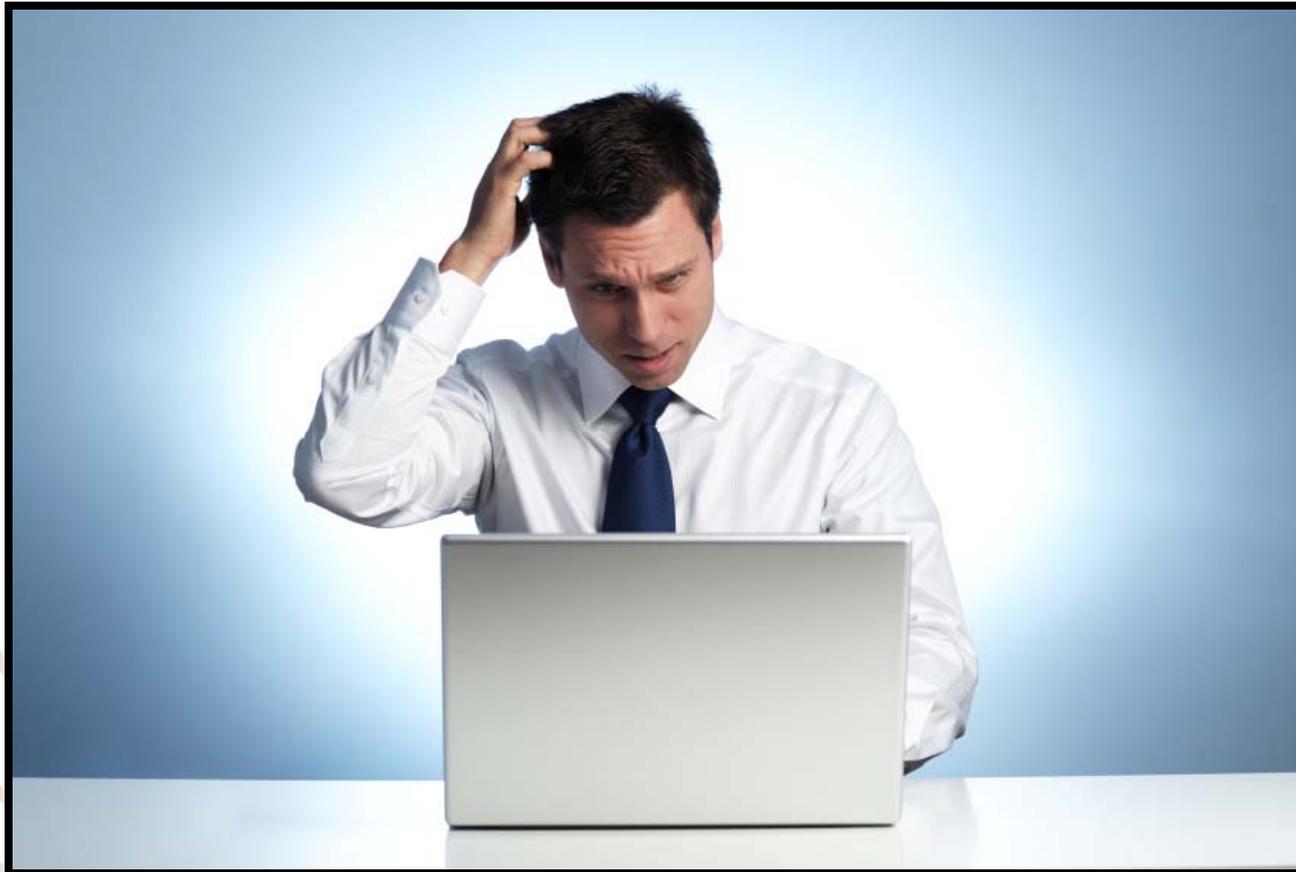
Arizona
Department of
Health Services

State Waiver



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Protocol for Requesting Centers for Medicare and Medicaid Services (CMS) Waiver

Waiver or Modification of Regulatory Requirements based on Section 1135(b) of the Social Security Act are as follows:

- 1. Presidential declared state of emergency under Stafford Act or National Emergency Act; and**
- 2. A waiver or modification is invoked by the Secretary of the Department of Health and Human Services.**

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CMS Waiver or Modification

The Secretary of State will Invoke when the Emergency

- Poses a risk that sufficient healthcare items and services may not be available to meet the needs of individuals enrolled in Medicare, Medicaid and CHIP programs.
- Providers are unable to comply with one or more of these requirements as a result of the emergency situation.

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CMS Waiver or Modification Examples

- **Certain conditions of participation, certification, and program participation requirements.**
- **Requirements that physicians or other healthcare professionals hold licenses in the state in which they provide services if they have an equivalent license from another state.**



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CMS Waiver or Modification Examples (Contd.)

- **Sanctions for certain directions, relocations or transfers that would otherwise violate EMTALA if conducted pursuant to an appropriate state emergency preparedness plan or a state pandemic preparedness plan.**
- **Deadlines and timetables for the performance of required activities, as determined necessary by CMS.**

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Protocol for Requesting CMS Waiver (Contd.)

Requesting Facility Must

- **Request directly to CMS with a copy to State Survey Agency (DLS) for what rule(s) to be waived in §1135 of the Social Security Act**
- **Submit a justification of need for a waiver; information to support the request for waiver should be clear & concise**

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Protocol for Requesting CMS Waiver (Contd.)

CMS will do the Following:

- CMS Waiver Validation Team in consultation with State Survey Agency (DLS) will review request to ensure if request is justifiable.
- Case-by-case determinations will be made.
- Response time is usually within 3-business days of receipt.
- You must operate under normal rules and regulations UNLESS you have been granted modifications under 1135 waiver authority from specific requirements.

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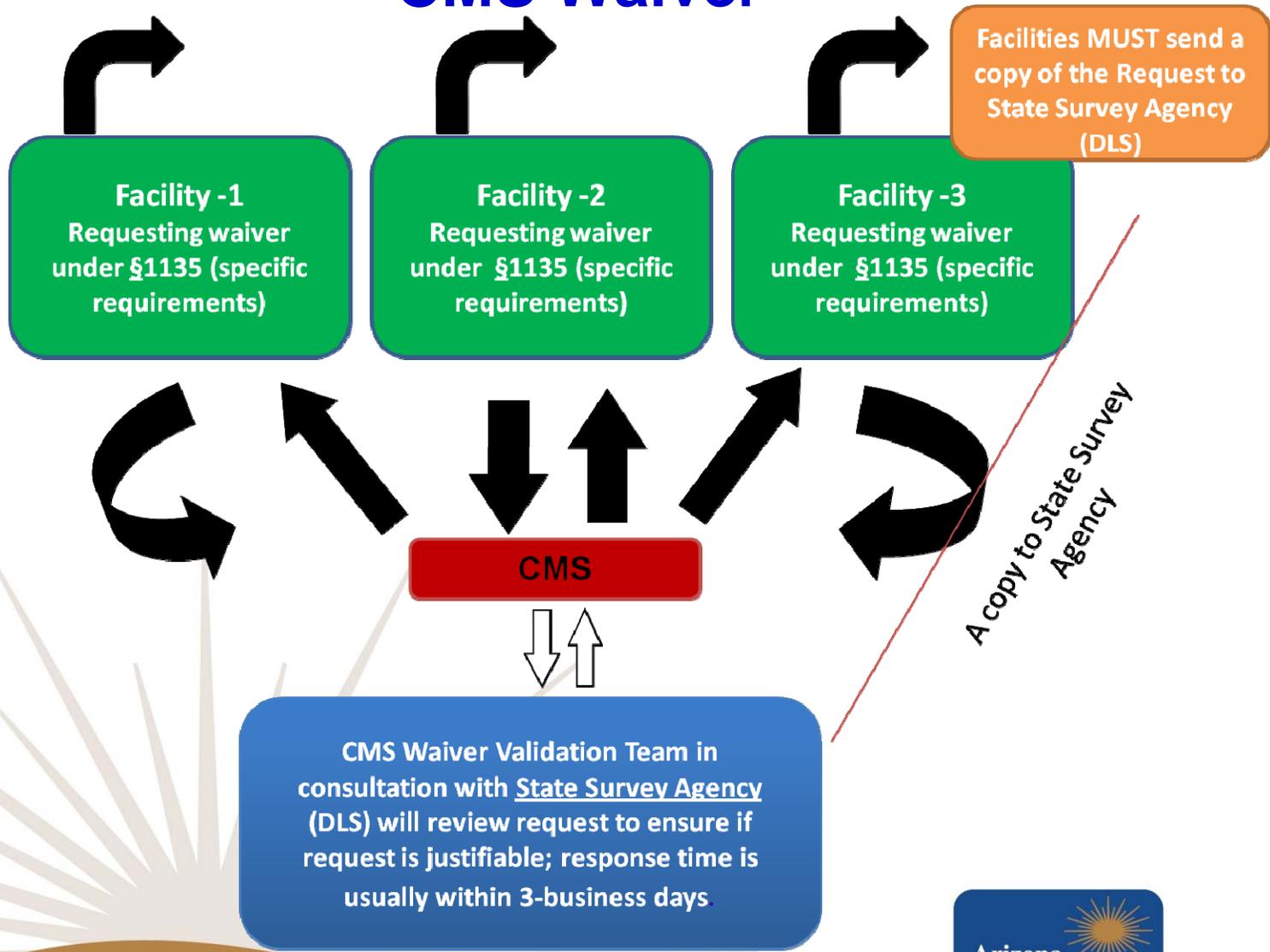


Examples of Provider CMS Waiver Requests

- A request to set up an alternate screening location away from the hospital's main campus.
- A request to facilitate transfer of patients from emergency departments and inpatient wards between hospitals.
- A request to waive the 25-bed limit and 96 hour average length of stay requirement for a critical access hospital.



CMS Waiver



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CMS Waiver Limitations

Limited to:

- Federally certified providers must operate under normal rules and regulations, unless they have sought and have been granted a waiver or modification from a specific requirement.
- Waivers are permitted only to the extent they ensure that sufficient healthcare items and services are available to meet the needs of Medicare, Medicaid, and CHIP beneficiaries nationwide during the declared Public Health Emergency.

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CMS Waiver Limitations (Contd.)

Limited to:

- A Section 1135 Waiver only applies to Federal requirements and does not apply to State laws or regulations.
- Providers must resume compliance with normal rules and regulations as soon as they are able to comply and no later than the termination of the emergency.

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Additional Information

- **Frequently Asked Questions (FAQs) for Surging Capacity Issues:**

<http://www.azdhs.gov/als/medical/index.htm>

- **Emergency Medical Treatment and Labor Act (EMTALA) Requirements and Options for Hospitals in a Disaster:**

http://www.cms.gov/SurveyCertificationGenInfo/downloads/SCLetter09_52.pdf

- **2009 H1N1 Influenza Pandemic-Presidential Emergency Declaration and US Department of Health and Human Services Section 1135 Waiver Authorization:**

http://www1.cms.gov/SurveyCertificationGenInfo/downloads/SCLetter10_06.pdf

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Questions



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