

March 17, 2023

Jacey Cooper  
State Medicaid Director  
Chief Deputy Director, Health Care Programs  
California Department of Health Care Services  
1501 Capitol Avenue, 6<sup>th</sup> Floor, MS 0000  
Sacramento, CA 95814

Dear Ms. Cooper:

On March 13, 2020, the President of the United States issued a proclamation that the Coronavirus Disease 2019 (COVID-19) outbreak in the United States constitutes a national emergency by the authorities vested in him by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.), and consistent with section 1135 of the Social Security Act (the Act) as amended (42 U.S.C. 1320b-5). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act as a result of the consequences of the COVID-19 pandemic, to the extent necessary, as determined by the Centers for Medicare & Medicaid Services (CMS), to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of 6:00 PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020.

In response to the section 1115(a) demonstration opportunity announced to states on March 22, 2020, in State Medicaid Director Letter (SMDL) #20-002,<sup>1</sup> and the guidance in State Health Official Letter (SHO) #22-001<sup>2</sup> as published on March 3, 2022, on July 6, 2022,

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<sup>1</sup> See SMDL #20-002, “COVID-19 Public Health Emergency Section 1115(a) Opportunity for States,” available at <https://www.medicare.gov/medicaid/section-1115-demonstrations/downloads/ma-covid19-phe-demo-state-app-04242020.pdf>.

<sup>2</sup> See SMDL #20-001, “Promoting Continuity of Coverage and Distributing Eligibility and Enrollment Workload in Medicaid, the Children’s Health Insurance Program (CHIP), and Basic Health Program (BHP) Upon Conclusion of the COVID-19 Public Health Emergency,” available at <https://www.medicare.gov/federal-policy-guidance/downloads/sho22001.pdf>.

California submitted a request for an amendment to the “California Advancing and Innovating Medi-Cal (CalAIM)” (formerly “Medi-Cal 2020”) section 1115(a) demonstration (Project Number 11-W-00193/9) to address the COVID-19 Public Health Emergency (PHE) and to promote continuity of coverage during the unwinding of the COVID-19 PHE. CMS determined that the state’s application is complete, consistent with the exemptions and flexibilities outlined in 42 CFR 431.416(e)(2) and 431.416(g).<sup>3</sup> CMS expects that states will offer, in good faith and in a prudent manner, a post-submission public notice process, including tribal consultation as applicable, to the extent circumstances permit.<sup>4</sup> This letter serves as a time-limited approval to provide continuous coverage for children aging out of CHIP and specified formerly pregnant individuals, which will be approved as an amendment under the CalAIM demonstration and which is hereby authorized retroactively from March 1, 2020, through the end of the unwinding period or until all redeterminations are conducted during the unwinding period as discussed in SHO #22-001.

CMS has determined that the COVID-19 PHE amendment to the CalAIM demonstration – including the Medicaid expenditure authority detailed below and in Attachment FF– is necessary to assist the state in delivering the most effective care to its beneficiaries in light of the COVID-19 PHE and to ensure renewals of eligibility and transitions between coverage programs occur in an orderly process that minimizes beneficiary burden and promotes continuity of coverage at the end of the COVID-19 PHE. The demonstration amendment is likely to assist in promoting the objectives of the Medicaid statute because it is expected to help the state furnish medical assistance in a manner intended to protect, to the greatest extent possible, the health, safety, and welfare of individuals who may be affected by COVID-19. This approval allows the state to align its policies for young adults, children, and pregnant individuals, and prevent gaps in coverage during the PHE. Additionally, this amendment ensures that the state can mitigate churn for eligible beneficiaries and smoothly transition individuals between coverage programs during the COVID-19 PHE unwinding period.

In addition, in light of the unprecedented emergency circumstances associated with the COVID-19 pandemic and consistent with the President’s declaration detailed above – and in consequence of the time-limited nature of this demonstration amendment – CMS did not require the state to submit budget neutrality calculations for this COVID-19 PHE amendment to the CalAIM demonstration. In general, CMS has determined that the costs to the federal government are likely to have been otherwise incurred and allowable. California will still be required to track demonstration amendment expenditures and will be expected to evaluate the connection between those expenditures and the state’s response to the PHE and the unwinding period, as well as the cost-effectiveness of those expenditures. Due to the highly limited scope of the changes under the amendment, CMS is incorporating this amendment as Attachment FF to the CalAIM special terms and conditions (STC).

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<sup>3</sup> Pursuant to 42 CFR 431.416(g), CMS has determined that the existence of unforeseen circumstances resulting from the COVID-19 PHE warrants an exception to the normal state and federal public notice procedures to expedite a decision on a proposed COVID-19 section 1115 demonstration or amendment. Under such circumstances, states applying for a COVID-19 section 1115 demonstration or amendment are not required to conduct a public notice and input process. CMS is also exercising its discretionary authority to expedite its normal review and approval processes to render timely decisions on state applications for COVID-19 section 1115 demonstrations or amendments. CMS will post all section 1115 demonstrations approved under this COVID-19 demonstration opportunity on the Medicaid.gov website.

***Request CMS is Approving at this Time***

CMS is approving the Medicaid expenditure authority excerpted below, from March 1, 2020 through the end of the unwinding period, or until all redeterminations are conducted during the unwinding period as discussed in SHO #22-001.

1. **Continuous Coverage for Individuals Aging Out of CHIP.** Expenditures to provide continued eligibility for CHIP enrollees who turned 19 between March 1, 2020, and the end of California’s unwinding period and therefore would be ineligible for CHIP due to age, and who are ineligible for Medicaid due to having income above 133 percent of the federal poverty level (FPL), provided such individuals have satisfactory immigration status.
  
2. **Continuous Coverage for Specified Formerly Pregnant Individuals.** Expenditures to provide continued eligibility for formerly pregnant individuals for whom coverage in the Medi-Cal Access Program (i.e. having income above 208 percent and up to and including 317 percent of the FPL) in CHIP has ended, and Health Services Initiative (HSI) postpartum coverage has ended, and who:
  - a. No longer have coverage under the CHIP unborn child option due to the pregnancy ending;
  - b. Finished up to 12 months of postpartum coverage under the state’s HSI;
  - c. Are otherwise ineligible for Medicaid or CHIP due to the pregnancy ending; and
  - d. Have satisfactory immigration status.

Expenditures are not allowed for individuals who do not have satisfactory immigration status.

***Monitoring and Evaluation Requirements***

Under this amendment, the state will test whether and how the approved expenditure authorities facilitate the state’s response to the PHE. To that end, CMS expects the state to undertake data collection and analyses that are meaningful; CMS believes that these will not be unduly burdensome. The state must submit an Evaluation Design to CMS no later than 60 days after the demonstration amendment is approved. As described further in Attachment FF, the state is expected to describe its plans to collect and report data on the number of beneficiaries served, service utilization, and cost outlays under this amendment. The Evaluation Design should describe how the state may leverage, for example, qualitative methods and descriptive data to help address evaluation questions that will support understanding the successes, challenges, and lessons learned in implementing the demonstration amendment. The state must also describe in the Evaluation Design its process to: (1) identify accurately individuals with satisfactory immigration status; and (2) only claim FFP for services for individuals with satisfactory immigration status. The state is required to post its Evaluation Design to the state’s website within 30 days of CMS approval of the Evaluation Design, per 42 CFR 431.424(e).

Furthermore, in alignment with the approved Evaluation Design, no later than one year after the end of the amendment approval period, the state must submit a Final Report. The Final Report will consolidate the monitoring and evaluation reporting requirements for this

expenditure authority. In addition to capturing data on the number of individuals served, cost outlays, and utilization of services under this amendment, the Final Report will undertake qualitative and descriptive assessment on the demonstration implementation, lessons learned, and best practices for similar situations. Furthermore, the state must include in the Final Report a discussion on how it implemented the process—including any challenges encountered and how those were overcome—to accurately identify claims and capitation payments for individuals with satisfactory immigration status, and to assure that individuals with unsatisfactory immigration status (UIS) were not included in FFP claims for services. Per 42 CFR 431.428(a), for each year of the amendment period, the state is required to complete an Annual [Monitoring] Report; the state may submit all *applicable* requirements stipulated for an Annual Report (e.g., administrative difficulties in the operation of the demonstration, issues and/or complaints identified by beneficiaries about the health care delivery system under the demonstration, any state legislative developments that may impact the demonstration) for the amendment approval period in the Final Report.

Approval of this demonstration amendment is subject to the limitations specified in the approved expenditure authority and the enclosed Attachment FF to the STCs. The state may deviate from its Medicaid state plan requirements only to the extent specific in the approved expenditure authority and the enclosed STCs for the demonstration. This approval is conditioned upon continued compliance with the previously approved STCs, which set forth in detail the nature, character, and extent of anticipated federal involvement in the project.

The award is subject to CMS receiving written acceptance of this award within 15 days of the date of this approval letter. Your project officer is Ms. Katherine Friedman. Ms. Friedman is available to answer any questions concerning implementation of the state's section 1115(a) demonstration amendment and her contact information is as follows:

Centers for Medicare & Medicaid Services  
Center for Medicaid and CHIP Services  
Mail Stop S2-25-26  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850  
Email: [katherine.friedman@cms.hhs.gov](mailto:katherine.friedman@cms.hhs.gov)

We appreciate your state's commitment to addressing the significant challenges posed by the COVID-19 pandemic, and we look forward to our continued partnership on the CalAIM section 1115(a) demonstration. If you have any questions regarding this approval, please contact Ms. Mehreen H. Rashid, Acting Director, State Demonstrations Group, Center for Medicaid and CHIP Services, at (410) 786-9686.

Sincerely,

A solid black rectangular box redacting the signature of Daniel Tsai.

Daniel Tsai  
Deputy Administrator and Director

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Enclosure

cc: Cheryl Young, State Monitoring Lead, Medicaid and CHIP Operations Group

## Attachment FF

### Time-limited Expenditure Authority and Associated Requirements for the COVID-19 Public Health Emergency (PHE) Demonstration Amendment

#### Expenditure Authority

Under the authority of section 1115(a)(2) and title XIX of the Social Security Act (the Act), expenditures made by the state for the items identified below, which are not otherwise included as expenditures under section 1903 of the Act, shall be regarded as expenditures under section 1903 of the Act for the period from March 1, 2020 through the end of the unwinding period, or until all redeterminations are conducted during the unwinding period.

**Continuous Coverage for Individuals Aging Out of CHIP.** Expenditures to provide continued eligibility for CHIP enrollees who turned 19 between March 1, 2020, and the end of the California’s unwinding period and therefore would be ineligible for CHIP due to age, and who are ineligible for Medicaid due to having income above 133 percent of the federal poverty level (FPL), provided such individuals have satisfactory immigration status.

**Continuous Coverage for Specified Formerly Pregnant Individuals.** Expenditures to provide continued eligibility for formerly pregnant individuals for whom coverage in the Medi-Cal Access Program (i.e., having income above 208 percent and up to and including 317 percent of the FPL) in CHIP has ended, and Health Services Initiative (HSI) postpartum coverage has ended, and who:

- a. No longer have coverage under the CHIP unborn child option due to the pregnancy ending;
- b. Finished up to 12 months of postpartum coverage under the state’s HSI;
- c. Are otherwise ineligible for Medicaid or CHIP due to the pregnancy ending; and
- d. Have satisfactory immigration status.

Expenditures are not allowed for individuals who do not have satisfactory immigration status.

#### Monitoring and Evaluation Requirements

1. **Evaluation Design.** The state must submit an Evaluation Design to CMS no later than 60 days after the demonstration amendment approval. Once approved, the state is required to post its Evaluation Design to the state’s website within 30 days of CMS approval of the Evaluation Design, per 42 CFR 431.424(e). In developing the Evaluation Design, the state can focus on qualitative methods and descriptive data to address evaluation questions that will support understanding the successes, challenges, and lessons learned in implementing the demonstration amendment. The state must also describe its plans to collect and report data on the size of the populations served under this demonstration amendment, and a summary of service utilization. The Evaluation Design must outline plans to assess how demonstration outlays affect the state’s response to the PHE. The state must also describe in the Evaluation Design its process to: (1)

identify accurately individuals with satisfactory immigration status; and (2) only claim FFP for services for individuals with satisfactory immigration status. CMS will provide additional technical assistance to support developing the Evaluation Design.

- 2. Final Report.** The state is required to submit to CMS for review and approval a Final Report, which will consolidate the monitoring and evaluation reporting requirements for this demonstration amendment. The Final Report is due no later than one year after the end of the expenditure authority. In addition to capturing data on the number of individuals served and utilization of services under this amendment, the Final Report must undertake qualitative and descriptive assessment on the demonstration implementation, lessons learned, and best practices for similar situations. The state is required to track expenditures associated with this demonstration, as applicable, and may include but not be limited to, administrative costs and program expenditures. Furthermore, the state must include in the Final Report a discussion on how it implemented the process—including any challenges encountered and how those were overcome—to accurately identify claims and capitation payments for individuals with satisfactory immigration status, and to assure that individuals with UIS were not included in FFP claims for services. For each year of the amendment that the state is required to complete an Annual [Monitoring] Report per 42 CFR 431.428(a), the state may submit all applicable information for the amendment approval period in the Final Report. CMS will provide additional guidance on the structure and content of the Final Report.