

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-25-26  
Baltimore, Maryland 21244-1850



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## State Demonstrations Group

Kate McEvoy  
Medicaid Director  
Connecticut Department of Social Services  
55 Farmington Avenue  
Hartford, CT 06105

Dear Ms. McEvoy:

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 (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. We note that the emergency period will terminate, upon termination of the public health emergency (PHE), including any extensions.

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> on April 6, 2020, Connecticut submitted a request for a section 1115(a) demonstration to address the COVID-19 PHE. On April 17, 2020, CMS determined that the state's application was complete, consistent with the exemptions and flexibilities outlined in 42 CFR 431.416(e)(2) and 431.416(g).<sup>2</sup>

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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/sites/default/files/Federal-Policy-Guidance/Downloads/smd20002-1115template.docx>.

<sup>2</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. States applying for a COVID-19 section 1115

Connecticut requested a number of flexibilities in its section 1115 demonstration application for which section 1115 authority is not needed. As we've communicated to the state during our discussions, the following flexibilities may be approved via state plan amendments (SPA) or used under existing state plan authorities, and the state has chosen to pursue these authorities or exercise existing approved authorities to permit:

- Virtual assessments and reassessments waiving the face-to-face requirement for the 1915(i) state plan population;
- Increases in service cost limits if needed to support members in the community safely for the 1915(i) state plan population;
- Mental health counseling and Adult Day Health to be provided electronically or telephonically to the 1915(i) state plan population;
- The substitution of lower level staff in a service plan, such as substituting a Companion for a Homemaker for the 1915(i) state plan population; and
- A family member to provide companion services to the 1915(i) state plan population.

In addition, the following flexibilities may be approved via 1135 waivers which the state has chosen to pursue:

- To reduce or delay the need to conduct functional assessments to determine level of care for beneficiaries needing LTSS for the 1915(i) state plan population; and
- To suspend required timeline for task completion, in particular for reassessments, for the duration of the emergency for the 1915(i) state plan population.

CMS continues to work with the state on these requests under the applicable state plan or 1135 waiver pathways. Since section 1115 demonstration authority is not needed at this time, with this letter, CMS considers the above mentioned section 1115 demonstration requests withdrawn. Should the state have additional questions regarding the requests discussed above, your Medicaid and CHIP Operations Group state monitoring lead, Marie DiMartino, is available to answer any questions.

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 in providing services to your state's Medicaid enrollees.

Sincerely,

Judith Cash  
Director

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demonstration 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. CMS will post all section 1115 demonstrations approved under this COVID-19 demonstration opportunity on the Medicaid.gov website.

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Enclosure

cc: Marie DiMartino, State Monitoring Lead, Medicaid and CHIP Operations Group