DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

May 19, 2022

Ms. Caprice Knapp
State Medicaid Director
Medicaid Services Division
North Dakota Department of Human Services
600 E Boulevard Ave, Dept 325
Bismarck, ND 58505-0250

Dear Caprice Knapp:

North Dakota submitted the Managed Care Risk Mitigation COVID-19 Public Health Emergency (PHE) section 1115 demonstration application on March 9, 2022. This letter serves as time-limited approval of the request included in the state's Managed Care Risk Mitigation COVID-19 PHE section 1115 demonstration application, which will be approved as the "North Dakota Managed Care Risk Mitigation COVID-19 PHE" section 1115(a) demonstration (Project Number 11-W-00397/8).

On March 13, 2020, the President of the United States issued a proclamation that the 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: 1) sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs, and 2) health care providers who 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 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 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,[1] North Dakota submitted an 1115 COVID-19 demonstration application on March 9, 2022, to address the COVID-19 PHE. CMS has determined that the state's application is complete and consistent with the exemptions and

[1] See SMDL #20-002, "COVID-19 Public Health Emergency Section 1115(a) Opportunity for States," available at https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/smd20002-1115template.docx.

flexibilities outlined in 42 CFR 431.416(e)(2) and 431.416(g).[2] 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.

This demonstration would test whether, in the context of the current COVID-19 PHE, an exemption from the regulatory prohibition in 42 CFR 438.6(b)(1) promotes the objectives of the Medicaid program. To that end, the expenditure authority is expected to support states with making appropriate, equitable payments during the PHE to help maintain beneficiary access to care. This exemption allows states to enter into or modify a risk mitigation arrangement with a Medicaid managed care plan after the applicable rating period has begun.

CMS has determined that this demonstration – including the expenditure authority detailed below –promotes the objectives of the Medicaid program because it is necessary to ensure appropriate, equitable payment for services during the PHE, and it assists the state in delivering the most effective care possible to its beneficiaries in light of the COVID-19 PHE. To that end, the demonstration 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 and providers who may be affected by the COVID-19 PHE. This authority is effective regardless of whether the state substantially complied with the regulation by, for example, submitting unsigned contracts and rate certification documents for CMS review either before or after the effective date of the new regulation but before the start of the rating period.

As part of ongoing managed care oversight, CMS will investigate how providing this authority results in either increased or decreased payments to plans, given the significant fluctuations in utilization that may occur during a pandemic. In addition, CMS managed care oversight efforts will include an assessment of whether and how payments under the retroactive risk mitigation arrangements, which must be developed in accordance with all other applicable requirements in 42 CFR Part 438, including 438.4 and 438.5, and generally accepted actuarial principles and practices, are sufficient to cover costs under the managed care contract. Finally, CMS will ascertain how the implementation of risk mitigation after the start of the rating period, which may not truly address the uncertainty inherent in setting capitation rates prospectively, compares to not allowing retroactive risk sharing during a PHE, which may lead to substantially inaccurate or inequitable payments given the severe disruption in utilization. As with all section 1115 demonstrations, CMS will take into account the experience of the state and managed care plans in this demonstration, gathering more information about the efficacy of such a demonstration during a PHE.

Expenditure Authority

CMS is approving expenditure authority for the state to add or modify a risk sharing arrangement after the start of the rating period to maintain capacity during the emergency. This expenditure

[2] 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 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.

authority applies only to contracts and rating periods that begin or end during the COVID-19 PHE. This expenditure authority allows the state to add or modify the risk sharing mechanism(s) after the start of the rating period as specified in the state's contracts with its Medicaid managed care plans. The authority would exempt, as necessary, the state from compliance with the current requirements in section 438.6(b)(1), until the end of the PHE. The authority would allow one or more retroactive risk mitigation arrangements to remain in place even if the state and the managed care plan had agreed to these arrangements after the requirements in section 438.6(b)(1) became effective. This authority is effective regardless of whether the state substantially complied with the regulation by, for example, submitting unsigned contracts and rate certification documents for CMS review either before or after the effective date of the new regulation, but before the start of the rating period.

If the contract and rating period begins or ends during the COVID-19 PHE and the contract was signed prior to the last day of the PHE, CMS is hereby granting expenditure authority to permit the state to implement retroactively one or more risk sharing arrangements for the full duration of the rating period. If the rating period *ended* on or after March 1, 2020, and ended prior to the last day of the PHE, the state can retroactively implement one or more risk sharing arrangements for the full duration of the rating period. If the rating period *began* after March 1, 2020, and prior to the last day of the PHE, the state can retroactively implement one or more risk sharing arrangements for the full duration of the rating period. A state can only retroactively implement risk sharing arrangements under this demonstration for multiple rating periods if the contract signature criteria as well as the rating period beginning and/or ending criteria are met for each rating period.

Monitoring and Evaluation Requirements

Consistent with CMS requirements for monitoring and evaluation of section 1115 demonstrations, the state will be required to develop an Evaluation Design and a Final Report, that will consolidate the demonstration's monitoring and evaluation requirements. The draft Evaluation Design will be due to CMS no later than 180 calendar days after approval of the demonstration. The draft Final Report will be due to CMS 18 months after either the expiration of the demonstration approval period or the end of the latest rating period covered under the state's approved expenditure authority, whichever comes later.

CMS will provide guidance to help the state fulfill the monitoring and evaluation requirements, including assistance in developing the Evaluation Design. Given the unique circumstances and time-limited nature of the demonstration, CMS expects North Dakota to undertake data collection and/or analyses that are meaningful but not unduly burdensome for the state. Specifically, the state should focus on qualitative methods and descriptive statistics to address evaluation questions that will support understanding the successes, challenges, and lessons learned in implementing the demonstration. The state also is expected to review 42 CFR 431.428 to ensure that the Final Report captures all applicable requirements stipulated for an annual report (e.g., incidence and results of any audits, investigations or lawsuits, or any state legislative developments that may impact the demonstration). The Evaluation Design and the Final Report will cover all risk sharing arrangements and rating periods under the scope of the demonstration.

Once approved, per 42 CFR 431.424(e), the state is required to post the Evaluation Design to its Medicaid agency website within 30 calendar days of CMS approval. Likewise, per the standard Public Access requirement associated with section 1115 demonstration deliverables, the state will post the CMS-approved Final Report to its website within 30 calendar days of CMS approval.

Per 42 CFR 431.420(f), the state must comply with any requests for data from CMS or its federal evaluation contractors.

In addition to the section 1115 monitoring and evaluation requirements outlined above, the state must separately comply with the applicable managed care reporting requirements per 42 CFR 438.66 and section 1936(b) of the Act.

Other Information

Approval of this expenditure authority is conditioned upon compliance with the approved special terms and conditions, which set forth in detail the nature, character and extent of anticipated federal involvement in the project.

In addition, the approval is subject to CMS receiving written acceptance of this award within 15 days of the date of this approval letter. Your project officer is Julian Taylor. Mr. Taylor is available to answer any questions concerning implementation of the state's section 1115(a) demonstration and his 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: Julian.Taylor@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 North Dakota Managed Care Risk Mitigation COVID-19 PHE section 1115(a) demonstration. If you have any questions regarding this approval, please contact Ms. Judith Cash, Director, State Demonstrations Group, Center for Medicaid and CHIP Services, at (410) 786-9686.

Sincerely,

Chiquita Brooks-LaSure

Enclosure

cc: Curtis Volesky, State Monitoring Lead, Medicaid and CHIP Operations Group

CENTERS FOR MEDICARE & MEDICAID SERVICES
EXPENDITURE AUTHORITY

NUMBER: 11-W-00397/8

TITLE: North Dakota Managed Care Risk Mitigation COVID-19 Public Health Emergency Section 1115 Demonstration

AWARDEE: North Dakota Department of Human Services

Under the authority of section 1115(a)(2) 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, for rating periods covered by this demonstration, be regarded as expenditures under the state's title XIX plan provided that the contract and rating period begins or ends during the COVID-19 Public Health Emergency (PHE) described in section 1135(g)(1)(B) of the Act and the contract is signed prior to the last day of such PHE.

The following expenditure authority may only be implemented consistent with the approved Special Terms and Conditions (STCs) and shall enable the state to operate the above-identified section 1115(a) demonstration.

Retroactive Risk Mitigation

CMS is approving expenditure authority for the state to add or modify a risk sharing arrangement after the start of the rating period to maintain capacity during the COVID-19 PHE. This expenditure authority applies only to contracts and rating periods that begin or end during the COVID-19 PHE when the contract was signed prior to the last day of the COVID-19 PHE. This expenditure authority exempts the state from compliance with the requirements under 42 CFR 438.6(b)(1) and allows the state to add or modify the risk sharing mechanism(s) after the start of the rating period as specified in the state's contracts with its Medicaid managed care plans. The authority would exempt, as necessary, the state from compliance with the current requirements in section 438.6(b)(1) for the specific contracts and rating periods that begin or end during the COVID-19 PHE when the contract was signed prior to the last day of the COVID-19 PHE. The authority would allow one or more retroactive risk mitigation arrangements to remain in place even if the state and the managed care plan had agreed to these arrangements after the requirements in section 438.6(b)(1) became effective. This authority is effective regardless as to whether the state substantially complied with the regulation by, for example, submitting unsigned contracts and rate certification documents for CMS review either before or after the effective date of the new regulation but before the start of the rating period.

If the contract and rating period begins or ends during the COVID-19 PHE and the contract was signed prior to the last day of the PHE, CMS is hereby granting expenditure authority to permit the state to implement retroactively one or more risk sharing arrangements for the full duration of the rating period. If the rating period *ended* on or after March 1, 2020 and ended prior to the last day of the PHE, the state can retroactively implement one or more risk

sharing arrangements for the full duration of the rating period. If the rating period *began* after March 1, 2020, and prior to the last day of the PHE, the state can retroactively implement one or more risk sharing arrangements for the full duration of the rating period. A state can only retroactively implement risk sharing arrangements under this demonstration for multiple rating periods if the contract signature criteria as well as the rating period beginning and/or ending criteria are met for each rating period.

CENTERS FOR MEDICARE & MEDICAID SERVICES
SPECIAL TERMS AND CONDITIONS

NUMBER: 11-W-00397/8

TITLE: North Dakota Managed Care Risk Mitigation COVID-19 Public Health Emergency Section 1115 Demonstration

AWARDEE: North Dakota Department of Human Services

I. PREFACE

The following are the Special Terms and Conditions (STCs) for the North Dakota Managed Care Risk Mitigation COVID-19 Public Health Emergency (PHE) section 1115(a) Medicaid Demonstration (hereinafter "Demonstration"). The parties to this agreement are the North Dakota Department of Human Services (North Dakota), which will operate this demonstration and the Centers for Medicare & Medicaid Services (CMS), which has granted expenditure authority authorizing expenditures for costs not otherwise matchable. The expenditure authority is separately enumerated. The STCs set forth herein detail the state's obligations to CMS during the life of the demonstration. The STCs are effective March 1, 2020, unless otherwise specified. This demonstration provides expenditure authority for the full duration of the applicable rating period(s) if the requirements as to timing of the rating period (that it begins or ends during the PHE) and signing of the contract (before the last day of the PHE) are met.

The STCs have been arranged into the following subject areas:

I. Preface
II. Program Description and Objectives
III. General Program Requirements
IV. COVID-19 Public Health Emergency Program and Benefits
V. Cost Sharing
VI. Delivery System
VII. General Reporting Requirements and Evaluation of the Demonstration
VIII. General Financial Requirements Under Title XIX
IX. Schedule of State Deliverables for the Demonstration Period

II. PROGRAM DESCRIPTION AND OBJECTIVES

The North Dakota Managed Care Risk Mitigation COVID-19 PHE demonstration is approved in recognition of the PHE as a result of the COVID-19 pandemic. The demonstration will help the state to furnish medical assistance in a manner intended to protect, to the greatest extent possible, the health, safety, and welfare of individuals and providers who may be affected by COVID-19.

The state's title XIX state plan and title XXI state plan, as approved, will continue to operate concurrently with this section 1115 demonstration.

III. GENERAL PROGRAM REQUIREMENTS

1. **Compliance with Federal Non-Discrimination Statutes.** The state agrees that it must comply with all applicable federal statutes relating to non-discrimination in services and benefits in its programs and activities. These include, but are not limited to, the Americans with Disabilities Act (ADA) of 1990, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Section 1557 of the Patient Protection and Affordable Care Act (Section 1557). Such compliance includes providing reasonable modifications to individuals with disabilities under the ADA, Section 504, and Section 1557 with eligibility and documentation requirements, and in understanding program rules and notices.

2. **Compliance with Medicaid and Children's Health Insurance Program (CHIP) Law, Regulation, and Policy.** All requirements of the Medicaid and CHIP programs expressed in law, regulation, and policy statement not expressly waived or identified as not applicable in the waiver and expenditure authority documents of which these terms and conditions are part, must apply to the demonstration.

3. **Changes in Medicaid Law, Regulation, and Policy.** The state must, within the timeframes specified in law, regulation, court order, or policy statement, come into compliance with any changes in federal law, regulation, or policy affecting the Medicaid program that occur during this demonstration approval period, unless the provision being changed is explicitly waived or identified as not applicable. In addition, CMS reserves the right to amend the STCs to reflect such changes as needed without requiring the state to submit an amendment to the demonstration. CMS will notify the state 15 days in advance of the expected approval date of the amended STCs to allow the state to provide comment. Changes will be considered in force upon issuance of the approval letter by CMS. The state must accept the changes in writing.

4. **Impact of Changes in Federal Law, Regulation, and Policy on the Demonstration.** If mandated changes in the federal law require state legislation, unless otherwise prescribed by the terms of the federal law, the changes must take effect on the day such state legislation becomes effective, or on the last day such legislation was required to be in effect under federal law, whichever is sooner.

5. **Prior CMS Approval Required for Any Changes to the Demonstration**. The state must not implement any changes to these demonstration elements without prior approval by CMS.

6. **Federal Financial Participation.** No federal matching funds for expenditures for this demonstration, including administrative and medical assistance expenditures, will be available until the effective date identified in the CMS demonstration approval letter.

7. **Common Rule Exemption.** The state must ensure that the only involvement of human subjects in research activities that may be authorized and/or required by this demonstration is for projects conducted by or subject to the approval of CMS, and

designed to study, evaluate, or otherwise examine the Medicaid or CHIP program – including public benefit or service programs, procedures for obtaining Medicaid or CHIP benefits or services, possible changes in or alternatives to Medicaid or CHIP programs or procedures, and/or possible changes in methods or levels of payment for Medicaid benefits or services. The Secretary of Health and Human Services (HHS) has determined that this demonstration as represented in these approved STCs meets the requirements for exemption from the human subject research provisions of the Common Rule set forth in 45 CFR 46.104(d)(5).

8. **CMS Right to Terminate or Suspend.** CMS may suspend or terminate the demonstration, in whole or in part, at any time before the date of expiration, whenever it determines, following a hearing, that the state has materially failed to comply with the terms of the project. CMS must promptly notify the state in writing of the determination and the reasons for the suspension or termination, together with the effective date.

9. **Withdrawal of Authority.** CMS reserves the right to withdraw expenditure authority at any time it determines that continuing the expenditure authority would no longer be in the public interest or promote the objectives of title XIX, as applicable. CMS will promptly notify the state in writing of the determination and the reasons for the withdrawal, together with the effective date, and afford the state an opportunity to request a hearing to challenge CMS' determination prior to the effective date. If an expenditure authority is withdrawn, Federal Financial Participation (FFP) is limited to normal closeout costs associated with terminating the expenditure authority.

10. **Finding of Non-Compliance.** The state does not relinquish its rights to challenge CMS' finding that the state materially failed to comply.

IV. MANAGED CARE RISK MITIGATION COVID-19 PUBLIC HEALTH EMERGENCY BENEFITS

11. **Managed Care Risk Mitigation COVID-19 PHE Benefits.** The state's Managed Care Risk Mitigation COVID-19 PHE section 1115(a) demonstration is necessary to assist the state in delivering the most effective care to its beneficiaries in light of the COVID-19 PHE. The expenditure authority provided via this demonstration assists the state in promoting the objectives of Medicaid. This demonstration would test whether, in the context of the current COVID-19 PHE, an exemption from the regulatory prohibition in 42 CFR 438.6(b)(1) promotes the objectives of Medicaid. To that end, the expenditure authority is expected to support states with making appropriate, equitable payments during the PHE to help maintain beneficiary access to care. This exemption allows states to enter into or modify a risk mitigation arrangement with a Medicaid managed care plan after the applicable rating period has begun.

V. DELIVERY SYSTEM

12. Delivery System. The health care delivery system for the provision of services under this demonstration will be implemented in the same manner as currently authorized prior to March 1, 2020.

VI. GENERAL REPORTING REQUIREMENTS AND EVALUATION OF THE DEMONSTRATION

13. Submission of Post-Approval Deliverables. The state must submit all deliverables as stipulated by CMS and within the timeframes outlined within these STCs.

14. Evaluation Design. The state must submit a draft Evaluation Design to CMS within one hundred eighty (180) days of the demonstration approval, per any applicable technical assistance and guidance provided by CMS specifically for the expenditure authority approved for the Managed Care Risk Mitigation COVID-19 PHE demonstration, including any amendments. The state must submit to CMS a revised Evaluation Design within sixty (60) calendar days after receipt of CMS's comments. The Evaluation Design should cover all contracts, rating periods and risk sharing arrangements included in the demonstration. If the demonstration were to be amended in the future, the state and CMS would coordinate on any needed modifications to the Evaluation Design. Once approved, per 42 CFR 431.424(e), the state is required to post the it to the Medicaid agency website within thirty (30) calendar days of CMS approval.

In developing the Evaluation Design, the state should consider how the Final Report, as outlined in STC 15, can be customized for its demonstration. The focus should be using qualitative methods and descriptive statistics to understand the successes, challenges, and lessons learned in implementing the demonstration. The state will include in the Evaluation Design, for example, a description of the purpose of the demonstration, a general overview of the research questions to be examined in the Final Report, an outline of data sources that would be useful to both contextualize and respond to these questions, a brief narrative on the analyses to be conducted, and any anticipated limitations to the evaluation approaches. Using applicable CMS technical assistance and guidance, the state is encouraged to customize evaluation questions based on the specific scope of the demonstration under this authority. Specifically, the state should examine how the demonstration facilitated attaining the objectives of Medicaid, and how the authority supported the state in making appropriate, equitable payments during the COVID-19 PHE to help with maintenance of beneficiary access to care during this period that otherwise would have been challenging due to the prohibitions in section 438.6(b)(1).

15. Final Report. The Final Report will consolidate monitoring and evaluation reporting requirements for this section 1115 demonstration. The draft Final Report will be due to CMS eighteen (18) months after either the expiration of the demonstration approval period or the end of the latest rating period covered under the state's approved expenditure authority, whichever comes later. The state must submit a revised Final Report within sixty (60) calendar days of receiving comments from CMS on the draft. The Final Report should provide analysis and discussion of qualitative and descriptive data to address evaluation questions that support understanding the successes, challenges, and lessons learned in implementing the demonstration. Per 42 CFR 431.428, the Final

Report will also capture all *applicable* requirements stipulated for an annual report (e.g., incidence and results of any audits, investigations or lawsuits, or any state legislative developments that may impact the demonstration). CMS will provide further guidance on the scope, structure, and content of the Final Report.

16. **Public Access.** The state shall post the final CMS-approved versions of the Evaluation Design and Final Report on the state's Medicaid agency website within 30 calendar days of approval by CMS.

17. **State Presentations for CMS.** CMS reserves the right to request that the state present and participate in a discussion with CMS on the Evaluation Design and the Final Report.

18. **Cooperation with Federal Evaluators.** As required under 42 CFR 431.420(f), the state shall cooperate fully and in a timely manner with CMS and its contractors in any federal evaluation of the demonstration or any component of the demonstration. This includes, but is not limited to, commenting on federal evaluation designs, or any other documents pertinent to federal evaluation; providing data and analytic files to CMS; entering into a data use agreement that explains how the data and data files will be exchanged; and providing a technical point of contact to support specification of the data and files to be disclosed, as well as relevant data dictionaries and record layouts. The state shall include in its contracts with entities that collect, produce, or maintain data and files for the demonstration, a requirement that they make data available for the federal evaluation as is required under 42 CFR 431.420(f) to support federal evaluation. The state may claim administrative match for these activities.

    In addition to the section 1115 monitoring and evaluation requirements outlined in Section VI, the state must separately comply with the applicable managed care reporting requirements under 42 CFR 438.66 and section 1936(b) of the Social Security Act.

VII. GENERAL FINANCIAL REQUIREMENTS UNDER TITLE XIX

19. **Allowable Expenditures.** In consequence of the unprecedented emergency circumstances associated with the COVID-19 pandemic and consistent with the President of the United States' proclamation that the 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 – and in consequence of the time-limited nature of this demonstration – CMS did not require the state to submit budget neutrality calculations for this section 1115(a) demonstration. In general, CMS has determined that the costs to the federal government are likely to have been otherwise incurred and allowable. This demonstration project is approved for expenditures applicable to services rendered during the demonstration approval period designated by CMS.

20. **Standard Medicaid Funding Process.** The standard Medicaid funding process will be used for this demonstration. The state will provide quarterly expenditure reports through the Medicaid and CHIP Budget and Expenditure System (MBES/CBES) to report total expenditures for services provided under this demonstration following routine CMS-37

and CMS-64 reporting instructions as outlined in section 2500 of the State Medicaid Manual. The state will estimate matchable demonstration expenditures (total computable and federal share) authorized for this demonstration and separately report these expenditures by quarter for each federal fiscal year on the form CMS-37 for both the medical assistance payments (MAP) and state and local administration costs (ADM). CMS shall make federal funds available based upon the state's estimate, as approved by CMS. Within thirty (30) days after the end of each quarter, the state shall submit form CMS-64 (Quarterly Medicaid Expenditure Report), showing Medicaid expenditures made in the quarter just ended. If applicable, subject to the payment deferral process, CMS shall reconcile expenditures reported on form CMS-64 with federal funding previously made available to the state, and include the reconciling adjustment in the finalization of the grant award to the State.

21. **Extent of Federal Financial Participation (FFP) for the Demonstration.** Subject to CMS approval of the source(s) of the non-federal share of funding, CMS will provide FFP at the applicable federal matching rate for the demonstration as a whole for the following:

    a. Administrative costs, including those associated with the administration of the demonstration; and

    b. Net expenditures and prior period adjustments of the Medicaid program that are paid in accordance with the approved Medicaid state plan.

22. **Sources of Non-Federal Share.** The state certifies that its match for the non-federal share of funds for this demonstration are state/local monies. The state further certifies that such funds must not be used to match for any other federal grant or contract, except as permitted by law. All sources of non-federal funding must be compliant with section 1903(w) of the Act and applicable regulations. In addition, all sources of the non-federal share of funding are subject to CMS approval.

    a. The state acknowledges that CMS has authority to review the sources of the non-federal share of funding for the demonstration at any time. The state agrees that all funding sources deemed unacceptable by CMS shall be addressed within the time frames set by CMS.

    b. The state acknowledges that any amendments that impact the financial status of the demonstration must require the state to provide information to CMS regarding all sources of the non-federal share of funding.

23. **Certification of Funding Conditions.** The state must certify that the following conditions for non-federal share of demonstration expenditures are met:

    a. Units of government, including governmentally operated health care providers, may certify that state or local monies have been expended as the non-federal share of funds under the demonstration.

b. To the extent the state utilizes certified public expenditures (CPE) as the funding mechanism for the state share of title XIX payments, including expenditures authorized under a section 1115 demonstration, CMS must approve a cost reimbursement methodology. This methodology must include a detailed explanation of the process by which the state would identify those costs eligible under title XIX (or under section 1115 authority) for purposes of certifying public expenditures.

c. To the extent the state utilizes CPEs as the funding mechanism to claim federal match for expenditures under the demonstration, governmental entities to which general revenue funds are appropriated must certify to the state the amount of such state or local monies that are allowable under 42 CFR 433.51 to satisfy demonstration expenditures. If the CPE is claimed under a Medicaid authority, the federal matching funds received cannot then be used as the state share needed to receive other federal matching funds under 42 CFR 433.51(c). The entities that incurred the cost must also provide cost documentation to support the state's claim for federal match.

d. The state may use intergovernmental transfers (IGT) to the extent that such funds are derived from state or local monies and are transferred by units of government within the state. Any transfers from governmentally operated health care providers must be made in an amount not to exceed the non-federal share of title XIX payments.

e. Under all circumstances, health care providers must retain 100 percent of the reimbursement for claimed expenditures. Moreover, consistent with 42 CFR 447.10, no pre-arranged agreements (contractual, voluntary, or otherwise) may exist between health care providers and state and/or local government to return and/or redirect to the state any portion of the Medicaid payments. This confirmation of Medicaid payment retention is made with the understanding that payments for the normal operating expenses of conducting business, such as payments related to taxes, including health care provider-related taxes, fees, business relationships with governments that are unrelated to Medicaid and in which there is no connection to Medicaid payments, are not considered returning and/or redirecting a Medicaid payment.

24. Program Integrity. The state must have processes in place to ensure there is no duplication of federal funding for any aspect of the demonstration. The state must also ensure that it and any of its contractors follow standard program integrity principles and practices including retention of data. All data, financial reporting, and sources of non-federal share are subject to audit.

VIII. SCHEDULE OF STATE DELIVERABLES DURING THE DEMONSTRATION PERIOD

Due Date	Deliverable
Fifteen (15) calendar days from date of demonstration approval	State Acceptance of Demonstration, STCs, Waivers and Expenditure Authority.

One hundred eighty (180) calendar days from date of the demonstration approval	Draft Evaluation Design
Sixty (60) calendar days after receipt of CMS comments	Revised Evaluation Design
Thirty (30) calendar days from date of Evaluation Design approval	Approved Evaluation Design Posted on State Website
Eighteen (18) months after either the expiration of the demonstration approval period or the end of the latest rating period covered under the state's approved expenditure authority, whichever comes later	Draft Final Report
Sixty (60) calendar days after receipt of CMS comments	Revised Final Report
Thirty (30) calendar days from date of Final Report approval	Approved Final Report Posted on State Website