DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

July 28, 2023

Traylor Rains
Chief Medicaid Director
Oklahoma Health Care Authority
4345 N. Lincoln Boulevard
Oklahoma City, OK 73105

Dear Traylor Rains:

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] on April 4, 2022, Oklahoma submitted a request for an amendment to the SoonerCare section 1115(a) demonstration (Project Number 11-W-00048/6) to address the COVID-19 Public Health Emergency (PHE), which ended on May 11, 2023.[2] CMS has 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).[3] 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 letter serves as a time-limited approval of the state's requests, which will be approved as an amendment under the SoonerCare demonstration and which is hereby authorized retroactively from March 1, 2020, and ending September 30, 2024.

CMS has determined that the COVID-19 PHE amendment to the SoonerCare demonstration is necessary to assist the state in delivering the most effective care to its beneficiaries in light 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 exempt SoonerCare members from cost-sharing for treatment related to COVID-19 or for services/treatment of any condition that may seriously complicate the treatment of COVID-19. This amendment approval aligns with the requirements under section 9811 of the American

[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.
[2] https://aspr.hhs.gov/legal/PHE/Pages/COVID19-9Feb2023.aspx
https://www.hhs.gov/about/news/2023/02/09/letter-us-governors-hhs-secretary-xavier-becerra-renewing-covid-19-public-health-emergency.html
[3] 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. 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.

Rescue Plan Act of 2021 (ARP) (Pub. L. 117-2)[4] for state Medicaid and CHIP programs to cover COVID-19-related treatments without cost-sharing and extends cost sharing exemptions to additional populations in the SoonerCare demonstration.[5] The COVID-19 treatment coverage requirements under Section 9811 of the ARP expire September 30, 2024. As such, the authorities granted under this amendment will also expire on September 30, 2024.[6]

In addition, in light of the unprecedented emergency circumstances associated with the COVID-19 pandemic 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 SoonerCare demonstration. In general, CMS has determined that the costs to the federal government are likely to have been otherwise incurred and allowable. Oklahoma will still be required to track demonstration expenditures and will be expected to evaluate the connection between those expenditures and the state's response to the PHE, 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 F to the SoonerCare Special Terms and Conditions (STCs).

Requests CMS is Approving at this Time

CMS is approving the Medicaid waiver authority, as described below, retroactively starting March 1, 2020, and ending on September 30, 2024.

1. **Comparability: Section 1902(a)(17).** To the extent necessary to enable the state to vary cost sharing requirements for title XIX state plan beneficiaries from cost sharing to which they otherwise would be subject under the state plan. This waiver specifically enables the state to exempt cost sharing for treatment of COVID-19, or for services/treatment of any condition that may seriously complicate the treatment of COVID-19, for individuals who are diagnosed with or presumed to have COVID-19 during the period such an individual has (or is presumed to have) COVID–19.

CMS is approving the Medicaid expenditure authority, as described below, retroactively starting March 1, 2020, and ending on September 30, 2024.

1. **Cost Sharing for COVID-19 Treatment.** Expenditures to exempt beneficiary cost-sharing for the treatment of COVID-19, or for services and/or treatment of any condition that may seriously complicate the treatment of COVID-19. This authority applies for current title XIX state plan beneficiaries and individuals in demonstration populations 1, 2, 3, 4, 12, 13, 14, 15, and 16 who are diagnosed with or presumed to have COVID-19, during the period such an individual has (or is presumed to have) COVID–19.

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[4] These coverage requirements can be found in Title XIX of the Social Security Act under section 1905(a)(4)(F).
[5] See State Health Official Letter #21-006, "Mandatory Medicaid and CHIP Coverage of COVID-19- Related Treatment under the American Rescue Plan Act of 2021," available at https://www.medicaid.gov/federal-policy-guidance/downloads/sho102221.pdf
[6] See CMCS Informational Bulletin dated May 8, 2023, "End of the COVID-19 Public Health Emergency (PHE) and the COVID-19 National Emergency and Implications for Medicaid and the Children's Health Insurance Program (CHIP)," available at https://www.medicaid.gov/state-resource-center/downloads/cib050823.pdf

CMS is approving the Title XIX Requirements Not Applicable to the Demonstration Expenditure Authority described above, retroactively starting March 1, 2020, and ending on September 30, 2024:

1. **Comparability: Section 1902(a)(17).** To the extent necessary to enable the state to vary cost sharing requirements for individuals in populations 12, 13, 14, 15, and 16 from cost sharing to which they otherwise would be subject. This non-applicable specifically enables the state to exempt cost sharing for treatment of COVID-19, or for services/treatment of any condition that may seriously complicate the treatment of COVID-19, for individuals who are diagnosed with or presumed to have COVID-19 during the period such an individual has (or is presumed to have) COVID–19.

Monitoring and Evaluation Requirements

Under this amendment, the state will test whether and how the approved 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 F, the state is expected to describe its plans to collect quantitative and qualitative data in the Evaluation Design. 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 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 these authorities. The Final Report will undertake qualitative and descriptive assessment on the demonstration implementation, lessons learned, and best practices for similar situations. The Final Report should also outline any challenges and limitations that might be encountered in the planning and conduct of the monitoring and evaluation activities. Per 42 CFR. 431.420(f), the state must comply with any requests for data from CMS or its federal evaluation contractors. 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.

Approval of this demonstration amendment is subject to the limitations specified in the approved waiver and expenditure authorities and the enclosed Attachment F to the STCs. The state may deviate from its Medicaid state plan requirements only to the extent specific in the approved waiver and expenditure authorities 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 Kamia Rathore. Kamia is available to answer any questions concerning implementation of the state's section 1115(a) demonstration amendment and may be contacted at Kamia.Rathore@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 SoonerCare 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 (443) 257-5069.

Sincerely,

Chiquita Brooks-LaSure

Enclosure

cc: Michala Walker, State Monitoring Lead, Medicaid and CHIP Operations Group

Attachment F

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

Waiver Authority

Under the authority of section 1115(a)(1) of the Social Security Act (the Act), the following waiver is granted to enable Oklahoma to operate the Oklahoma SoonerCare Medicaid section 1115 demonstration. These waivers are effective for the period retroactively from March 1, 2020 and ending on September 30, 2024.

1. **Comparability: Section 1902(a)(17).** To the extent necessary to enable the state to vary cost sharing requirements for individuals from cost sharing to which they otherwise would be subject under the state plan to enable the state to exempt cost sharing for treatment of COVID-19, or for services/treatment of any condition that may seriously complicate the treatment of COVID-19, for individuals who are diagnosed with or presumed to have COVID-19 during the period such an individual has (or is presumed to have) COVID–19.

Expenditure Authority

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 the period retroactively from March 1, 2020 and ending on September 30, 2024, be regarded as expenditures under the state's title XIX plan.

1. **Cost Sharing for COVID-19 Treatment.** Expenditures to exempt enrollee cost-sharing for the treatment of COVID-19, or for services and/or treatment of any condition that may seriously complicate the treatment of COVID-19. This authority applies for individuals in demonstration populations 1, 2, 3, 4, 12, 13, 14, 15, and 16 who are diagnosed with or presumed to have COVID-19, during the period such an individual has (or is presumed to have) COVID–19. Authority applies retroactively for the period between March 1, 2020 and ending on September 30, 2024.

Title XIX Requirements Not Applicable to the Demonstration Expenditure Authority

1. **Comparability: Section 1902(a)(17).** To the extent necessary to enable the state to vary cost sharing requirements for individuals in populations 12, 13, 14, 15, and 16 from cost sharing to which they otherwise would be subject to enable the state to exempt cost sharing for treatment of COVID-19, or for services/treatment of any condition that may seriously complicate the treatment of COVID-19, for individuals who are diagnosed with or presumed to have COVID-19 during the period such an individual has (or is presumed to have) COVID–19.

Monitoring and Evaluation Requirements

1. **Evaluation Design.** The state must submit an Evaluation Design to CMS within 60 days of the demonstration amendment approval. CMS will provide technical assistance on developing the Evaluation Design. For this demonstration amendment, the state will test whether and how the approved authorities facilitated the state's response to the COVID-19 PHE, and helped promote the objectives of Medicaid. To that end, the evaluation will address thoughtful evaluation questions that support understanding the successes and challenges in implementing the expenditure authority. 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).

2. **Final Report.** The state is required to submit a Final Report, which will consolidate monitoring and evaluation reporting requirements for these authorities. The state must submit the draft Final Report no later than one year after the expiration of the demonstration approval period. The Final Report should include a background description of the scope and objectives of the amendment, and in alignment with proposed evaluation questions and approaches in the approved Evaluation Design, an assessment of the implementation of the demonstration amendment, lessons learned thereof, and best practices for similar situations. The state will be required to track expenditures associated with this amendment, including but not limited to, administrative costs and program expenditures. The Final Report shall include an assessment of the linkage between those expenditures and the state's response to the PHE. The state should customize the content of the Final Report to align with the specific scope of the demonstration amendment. CMS will provide additional technical assistance on the structure and content of the Final Report.