DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop: S2-26-12
Baltimore, Maryland 21244-1850

September 15, 2023

Emily Zalkovsky
State Medicaid Director
Texas Health and Human Services Commission
4601 W Guadalupe St
MC H100
Austin, TX 78751

Dear Director Zalkovsky:

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] and the guidance in State Health Official Letter (SHO) #22-001[2] as published on March 3, 2022, on April 28, 2023, Texas submitted a request for a section 1115(a) demonstration to address the COVID-19 Public Health Emergency (PHE), which expired on May 11, 2023.[3] 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).[4] 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 an amendment to the "Healthy Texas Women" demonstration (Project Number: 11-W-00326/6) to provide coverage for COVID-19 specimen collection and testing for the population covered under this demonstration. This amendment is hereby authorized retroactively from March 1, 2020, through the end of the state's unwinding period as defined in SHO #22-001. We note that the Secretary-declared that the COVID-19 PHE period expired at the end of the day on May 11, 2023[5].

CMS has determined that the COVID-19 PHE amendment to the Healthy Texas Women demonstration – including the Medicaid expenditure authority detailed below and in Attachment F– is necessary to assist the state in delivering the most effective care to its

[1] See SMDL #20-002, "COVID-19 Public Health Emergency Section 1115(a) Opportunity for States," available at https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/ma-covid19-phe-demo-state-app-04242020.pdf.
[2] 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.medicaid.gov/federal-policy-guidance/downloads/sho22001.pdf.
[3] 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
[4] 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
[5] See https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html.

beneficiaries in light of the COVID-19 PHE, as there is no authority under the state plan to provide coverage for COVID-19 testing for limited benefit populations. Limited benefit populations do not meet the requirement for uninsured individuals a defined in section 1902(ss) of the Social Security Act ("the Act"). Although the CARES Act (§3716) amended the definition of an uninsured individual as defined in section 1902(ss) of the Act for the purpose of the COVID-19 testing group, it did not include limited benefit section 1115 demonstration populations. This 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.

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 Healthy Texas Women demonstration. In general, CMS has determined that the costs to the federal government are likely to have been otherwise incurred and allowable. Texas 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 F to the Healthy Texas Women special terms and conditions (STC).

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 state's unwinding period as defined in SHO #22-001.

1. **COVID-19 Specimen Collection and Testing**. Expenditures to provide coverage for specimen collection, viral testing, and antibody testing for COVID-19 for the Healthy Texas Women population between March 1, 2020, and the end of Texas's unwinding period.

Monitoring and Evaluation Requirements

Under this amendment, the state will test whether and how the approved expenditure authority facilitates 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 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 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 amendment implementation, lessons learned, and best practices for similar situations. 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 amendment, issues and/or complaints identified by beneficiaries about the health care delivery system under the amendment, any state legislative developments that may impact the amendment) 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 F to the STCs. The state may deviate from its Medicaid state plan requirements only to the extent specified 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 Felicia Pailen. Ms. Pailen is available to answer any questions concerning implementation of the state's section 1115(a) demonstration amendment and her contact information is as follows:

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Mail Stop S2-25-26
7500 Security Boulevard
Baltimore, Maryland 21244-1850
Email: Felicia.Pailen@cms.hhs.gov

We appreciate your state's commitment to addressing the significant challenges posed by the COVID-19 pandemic. 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,

Daniel Tsai
Deputy Administrator and Director

Enclosure

cc: Ford Blount, III, 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

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 this demonstration population for the period from March 1, 2020, to May 11, 2023, through the end of the unwinding period or until all redeterminations are conducted during the unwinding period as discussed in SHO #22-001 to be eligible for federal financial participation under the state's title XIX plan.

1. **Payment of COVID-19 specimen collection and testing.** To allow temporary payment for COVID-19 specimen collection (including collection, handling and/or transfer of specimens for COVID-19 testing), and viral and antibody testing for women within the Healthy Texas Women demonstration.

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, in alignment with guidance developed specifically for the expenditure authorities approved for the COVID-19 PHE. For this demonstration amendment, the state will test whether and how the approved expenditure authority 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 this expenditure authority. The state must submit the draft Final Report no later than one year after the end of the expenditure authority. 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. For each year of the amendment, to satisfy the requirements set in 42 CFR 431.428(a), the state may submit any applicable information as part of the Final Report. CMS's section 1115

demonstration evaluation guidance, "Preparing the Evaluation Report"[1] provides pertinent instructions that would be helpful in preparing the consolidated Final Report. 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.