

Table of Contents

State/Territory Name: Arizona

State Plan Amendment (SPA) #: 21-0002

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

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



March 25, 2021

Jami Snyder, Director
Arizona Health Care Cost Containment System
801 East Jefferson Street
Phoenix, AZ 85034

Re: Arizona State Plan Amendment (SPA) 21-0002

Dear Ms. Snyder:

We have reviewed the proposed amendment to add section 7.4 Medicaid Disaster Relief for the COVID-19 National Emergency to your Medicaid state plan, as submitted under transmittal number (TN) 21-0002. This amendment proposes to implement temporary policies, which are different from those policies and procedures otherwise applied under your Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof).

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 (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department 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 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and this state plan provision will no longer be in effect, upon termination of the public health emergency, including any extensions.

The State of Arizona requested a waiver of public notice requirements applicable to the SPA submission process. Pursuant to section 1135(b)(1)(C) of the Act, CMS is waiving public notice requirements applicable to the SPA submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42 C.F.R. §440.386 for changes to Alternative Benefit Plans (ABPs).

The State of Arizona also requested a waiver to modify the tribal consultation timeline applicable to this SPA submission process. Pursuant to section 1135(b)(5) of the Act, CMS is also allowing states to modify the timeframes associated with tribal consultation required under section 1902(a)(73) of the Act, including shortening the number of days before submission or conducting consultation after submission of the SPA.

These waivers or modifications of the requirements related to public notice and tribal consultation apply only with respect to SPAs that meet the following criteria: (1) the SPA provides or increases beneficiary access to items and services related to COVID-19 (such as by waiving or eliminating cost sharing, increasing payment rates or amending ABPs to add services or providers); (2) the SPA does not restrict or limit payment or services or otherwise burden beneficiaries and providers; and (3) the SPA is temporary, with a specified sunset date that is not later than the last day of the declared COVID-19 public health emergency (or any extension thereof). We nonetheless encourage states to make all relevant information about the SPA available to the public so they are aware of the changes.

We conducted our review of your submittal according to the statutory requirements at section 1902(a) of the Act and implementing regulations. This letter is to inform you that Arizona's Medicaid SPA Transmittal Number 21-0002 is approved effective January 1, 2021. This SPA supersedes pages 90 and 91 of the previously approved SPA Transmittal Number 20-0031 and pages 97 and 97(a) of the previously approved SPA Transmittal Number 20-0006.

Enclosed is a copy of the CMS-179 summary form and the approved state plan pages.

Please contact Brian Zolynas at (415) 744-3601 or by email at brian.zolynas@cms.hhs.gov if you have any questions about this approval. We appreciate the efforts of you and your staff in responding to the needs of the residents of the State of Arizona and the health care community.

Sincerely,

Alissa M.
Deboy -S

Digitally signed by Alissa
M. Deboy -S
Date: 2021.03.25
08:07 53 -04'00'

Alissa Mooney DeBoy
On Behalf of Anne Marie Costello, Acting Director
Center for Medicaid and CHIP Services

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER <u>2 1 — 0 0 0 2</u>	2. STATE Arizona
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	

TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE January 1, 2021
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5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION 42 CFR Part 447 Title XIX of the Social Security Act	7. FEDERAL BUDGET IMPACT a. FFY 2021 \$ 4,481,076 1,106,848 b. FFY 2022 \$ 0
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT 90, 91, 97, 97(a)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>) 90, 91, 97, 97(a)
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10. SUBJECT OF AMENDMENT

Updates the State Plan to allow the Administration to issue a second COVID-19 related direct payment program for nursing facilities (NFs), identical to the original one approved in the state plan.

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

13. NAME OF AGENCY OFFICIAL  Dana Flannery	16. RETURN TO Dana Flannery 801 E. Jefferson, MD#4200 Phoenix, Arizona 85034
14. TITLE Assistant Director	
15. DATE SUBMITTED 1/27/21	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED January 27, 2021	18. DATE APPROVED March 25, 2021
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL January 1, 2021	20. SIGNATURE OF REGIONAL OFFICIAL Alissa M. Deboy -S <small>Alissa M. Deboy -S Date: 2021.03.25 08 08 20 04'00'</small>
21. TYPED NAME Alissa Mooney DeBoy on Behalf of Anne Marie Costello	22. TITLE Acting Director Center for Medicaid and CHIP Services

23. REMARKS

Pen-and-ink changes made to Boxes 6 and 7 by CMS with state concurrence on 2/9/2021.

Section 7 – General Provisions
7.4. Medicaid Disaster Relief for the COVID-19 National Emergency

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 (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department 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 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 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and waivers will no longer be available, upon termination of the public health emergency, including any extensions.

The State Medicaid agency (agency) seeks to implement the policies and procedures described below, which are different than the policies and procedures otherwise applied under the Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof), or for any shorter period described below:

N/A.

The flexibilities described in this SPA shall be implemented throughout the duration of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof).

The effective date for the 2nd round NF supplemental payment is 1/1/2021.

NOTE: States may not elect a period longer than the Presidential or Secretarial emergency declaration (or any renewal thereof). States may not propose changes on this template that restrict or limit payment, services, or eligibility, or otherwise burden beneficiaries and providers.

Request for Waivers under Section 1135

 X The agency seeks the following under section 1135(b)(1)(C) and/or section 1135(b)(5) of the Act:

- a. SPA submission requirements – the agency requests modification of the requirement to submit the SPA by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 CFR 430.20.

TN: 21-0002

Approval Date: 3/25/2021
 Effective Date: 1/1/2021

Supersedes TN: 20-0031

- b. Public notice requirements – the agency requests waiver of public notice requirements that would otherwise be applicable to this SPA submission. These requirements may include those specified in 42 CFR 440.386 (Alternative Benefit Plans), 42 CFR 447.57(c) (premiums and cost sharing), and 42 CFR 447.205 (public notice of changes in statewide methods and standards for setting payment rates).
- c. Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in [Arizona] Medicaid state plan, as described below:

Current state plan language provides for an expedited Tribal Consultation process in situations that require immediate submission of a policy change to CMS. However, the current language details the Agency soliciting written comment “in the meeting notification with a description of the policy change and the date when the change will be submitted to CMS” at least 14 days prior to submission to CMS. While the Agency did hold an emergency Tribal Consultation meeting to discuss these policy changes, AHCCCS was not able to meet this 14 day requirement prior to submission to CMS, and are thus seeking relevant flexibility.

Section A – Eligibility

1. The agency furnishes medical assistance to the following optional groups of individuals described in section 1902(a)(10)(A)(ii) or 1902(a)(10)(c) of the Act. This may include the new optional group described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Act providing coverage for uninsured individuals.

2. The agency furnishes medical assistance to the following populations of individuals described in section 1902(a)(10)(A)(ii)(XX) of the Act and 42 CFR 435.218:

a. All individuals who are described in section 1905(a)(10)(A)(ii)(XX)

Income standard: _____

-or-

b. Individuals described in the following categorical populations in section 1905(a) of the Act:

Income standard: _____

3. The agency applies less restrictive financial methodologies to individuals excepted from financial methodologies based on modified adjusted gross income (MAGI) as follows.
Less restrictive income methodologies.

Please describe.

Payment for services delivered via telehealth:

- 3. For the duration of the emergency, the state authorizes payments for telehealth services that:
 - a. Are not otherwise paid under the Medicaid state plan;
 - b. Differ from payments for the same services when provided face to face;
 - c. Differ from current state plan provisions governing reimbursement for telehealth;

Describe telehealth payment variation.

- d. Include payment for ancillary costs associated with the delivery of covered services via telehealth, (if applicable), as follows:
 - i. Ancillary cost associated with the originating site for telehealth is incorporated into fee-for-service rates.
 - ii. Ancillary cost associated with the originating site for telehealth is separately reimbursed as an administrative cost by the state when a Medicaid service is delivered.

Other:

- 4. Other payment changes:

- *The Administration shall make interim payments to each hospital to reflect a preliminary, estimated amount for each GME component. The interim payment amount shall be computed as 80.0% of the actual distribution to each hospital for the service period of July 1, 2018, to June 30, 2019. The Administration will then compute the final, actual GME amounts for the service period July 1, 2019, to June 30, 2020, and adjust the final distribution amounts by the amount of the interim payments already made. The final computation, reconciliation, and distribution will occur no later than one year from June 30, 2020. The federal share of any overpayments are returned to CMS in accordance with 42 CFR 433, Subpart F.*
- *The Administration shall make two rounds of lump sum payments to registered network providers who provide nursing facility services with Arizona Fee for Service (FFS) Medicaid utilization for service periods during the PHE, and will use October 1, 2019 to December 31, 2019 as proxy utilization data for both rounds. Registered network providers which qualify for these increases include all Nursing Facilities (NF), except for Out-of-State nursing facilities, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs) and the Arizona Veteran’s Homes. Both rounds of lump sum payments are to compensate providers for costs of covered services furnished to Arizona Medicaid beneficiaries to improve the member’s experience of care. For each round of payments, each registered network provider’s lump sum payment shall be determined as follows:*

1. Determine each provider's actual Medicaid bed days based on approved and adjudicated FFS claims from October 1, 2019 to December 31, 2019.
2. The uniform dollar increase amount for Nursing Facilities is \$30 per bed day.
3. The Administration will multiply the appropriate uniform dollar increase amount listed in item two by the number of Medicaid bed days as determined in item one to calculate the lump sum payment for each provider.

Section F – Post-Eligibility Treatment of Income

1. The state elects to modify the basic personal needs allowance for institutionalized individuals. The basic personal needs allowance is equal to one of the following amounts:
 - a. The individual's total income
 - b. 300 percent of the SSI federal benefit rate
 - c. Other reasonable amount: _____
2. The state elects a new variance to the basic personal needs allowance. (Note: Election