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State/Territory Name: Arizona

State Plan Amendment (SPA) #: 23-0008

This file contains the following documents in the order listed:

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

May 5, 2023

Carmen Heredia, Director
Arizona Health Care Cost Containment System
801 East Jefferson Street
Phoenix, AZ 85034

Re: Arizona State Plan Amendment (SPA) 23-0008

Dear Ms. Heredia:

We have reviewed the proposed amendment and accompanying section 1135 waivers to add section 7.4 Medicaid Disaster Relief for the COVID-19 National Emergency to your Medicaid state plan, as submitted on April 6, 2023 under transmittal number (TN) 23-0008. 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.

Pursuant to section 1135(b)(5) of the Act, for the period of the public health emergency, CMS is modifying the requirement at 42 C.F.R. 430.20 that the state submit SPAs related to the COVID-19 public health emergency by the final day of the quarter, to obtain a SPA effective date during the quarter, enabling SPAs submitted after the last day of the quarter to have an effective date in a previous quarter, but no earlier than the effective date of the public health emergency.

The State of Arizona also 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). Pursuant to section 1135(b)(1)(C), CMS is approving the state's request to waive these notice requirements otherwise applicable to SPA submissions.

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 SPA submission timelines, 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 23-0008 is approved effective January 1, 2023. This SPA supersedes pages 90 and 91 of the previously approved SPA TN 22-0031 and page 97(a) of the previously approved SPA TN 22-0006.

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: 2023.05.05 07:37:58 -04'00'

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

Enclosures

DEPARTMENT OF HEALTH ANDHUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: 23 – 0008

2. STATE: AZ

3. PROGRAM IDENTIFICATION: TITLE 19 OF THE SOCIALSECURITY ACT

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
~~April 1, 2023~~ January 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION
Title XIX of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2023 $ 36,300,000
b. FFY: 2024 $ NA

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Section 7.4
Page 90, 91, 97(a), 97(b)

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*
Page 90, 91, 97(a)

9. SUBJECT OF AMENDMENT
COVID Provider Payment

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

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

11. SIGNATURE OF STATE AGENCY OFFICIAL
[redacted]

12. TYPED NAME
Alex Demyan

13. TITLE
Interim Assistant Director

14. DATE SUBMITTED: 4/6/2023

15. RETURN TO
Alex Demyan
801 E. Jefferson St., MD #4200
Phoenix, AZ 85034

FOR CMS USE ONLY

16. DATE RECEIVED
April 6, 2023

17. DATE APPROVED
May 5, 2023

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
January 1, 2023

19. SIGNATURE OF APPROVING OFFICIAL
Alissa M. Deboy -S
Digitally signed by Alissa M. Deboy -S
Date: 2023.05 05 07 38:34 -04'00'

20. TYPED NAME OF APPROVING OFFICIAL
Alissa Mooney DeBoy

21. TITLE OF APPROVING OFFICIAL
On Behalf of Anne Marie Costello, Deputy Director
Center for Medicaid and CHIP Services

22. REMARKS
Pen-and-ink change made to Box 4 by CMS with state concurrence on 04/19/2023 and to Box 7 to add the Section number with state concurrence on 05/02/2023.

Instructions on Back

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 SPA is January 1, 2023

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. X 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.

b. __X___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. _X___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 will 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:

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 amount 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

- The Administration shall make a lump sum payment to registered network providers who provide qualifying American Rescue Plan Act (ARPA) services with Arizona Fee for Service (FFS) Medicaid utilization for service periods during the PHE, and will use October 1, 2020 to March 31, 2021 as proxy utilization data for the lump sum payment. The payment is intended to supplement services provided from April 1, 2022 to June 30, 2022. Registered network providers which qualify for these increases are outlined in the following link- https://azahcccs.gov/AHCCCS/downloads/Initiatives/ARPA/EligibleProviderTypesNon-DDD.pdf . The purpose of the lump sum payments is to compensate providers for costs of covered services furnished to Arizona Medicaid beneficiaries to improve the member's experience of care. Each registered network provider's lump sum payment shall be determined as follows:

1. Determine each provider's actual paid amounts for Medicaid state plan FFS utilization of qualifying services from October 1, 2020 to March 31, 2021.
2. Multiply the actual Medicaid utilization determined in item 1 by two.
3. The uniform percentage increase for providers will be 17.8%
4. The Administration will multiply the appropriate uniform percentage increase listed in item three by the total utilization determined in item two to calculate the lump sum payment for each provider.

   AHCCCS will not make any payments to providers that have a total lump sum payment of less than $1,000.

- The Administration shall make a second lump sum payment to registered network providers who provide qualifying American Rescue Plan Act (ARPA) services with Arizona Fee for Service (FFS) Medicaid utilization for service periods during the PHE, and will use March 1, 2022 to August 31, 2022 as proxy utilization data for the lump sum payment. The payment is intended to supplement services provided from January 1, 2023-March 31, 2023. Registered network providers which qualify for these increases are outlined in the following link- https://azahcccs.gov/AHCCCS/downloads/Initiatives/ARPA/EligibleProviderTypesNon-DDD.pdf . The purpose of the lump sum payments is to compensate providers for costs of covered services furnished to Arizona Medicaid beneficiaries to improve the member's experience of care. Each registered network provider's lump sum payment shall be determined as follows:

1. Determine each provider's actual paid amounts for Medicaid state plan FFS utilization of qualifying services from March 1, 2022, to August 31, 2022.
2. Multiply the actual Medicaid utilization determined in item 1 by two.
3. The uniform percentage increase for providers will be 11.48%
4. The Administration will multiply the appropriate uniform percentage increase listed in item three by the total utilization determined in item two to calculate the lump sum payment for each provider.

   AHCCCS will not make any payments to providers that have a total lump sum payment of less than $5,000.

Subsection 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