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**State/Territory Name: Colorado**

**State Plan Amendment (SPA) #: 21-0027**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS Form 179
- 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



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October 14, 2021

Kim Bimestefer, Executive Director  
Department of Health Care Policy & Financing  
1570 Grant Street  
Denver, CO 80203

Re: Colorado State Plan Amendment (SPA) 21-0027

Dear Ms. Bimestefer:

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) 21-0027. 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 Colorado 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.

These waivers of the requirements related to SPA submission timelines and public notice 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 Colorado's Medicaid SPA Transmittal Number 21-0027 is approved effective April 1, 2021. This SPA is in addition to Disaster Relief SPAs approved on April 21, 2020, May 6, 2020, May 20, 2020, October 1, 2020, April 15, 2021, April 20, 2021, May 28, 2021, July 21, 2021, August 11, 2021, and October 1, 2021.


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

Please contact Curtis Volesky at 303-844-7033 or by email at [Curtis.volesky@cms.hhs.gov](mailto:Curtis.volesky@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 Colorado and the health care community.

Sincerely,

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

Enclosures

|   |  |  |                                  |
|---|--|--|----------------------------------|
| <p align="center"><b>TRANSMITTAL AND NOTICE OF APPROVAL<br/>OF<br/>STATE PLAN MATERIAL</b></p> <p><b>FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b></p>  |  | 1. TRANSMITTAL NUMBER:<br><br><b>21-0027</b>   | 2. STATE:<br><br><b>COLORADO</b> |
|   |  | 3. PROGRAM IDENTIFICATION:<br><b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>   |                                  |
| TO: REGIONAL ADMINISTRATOR<br>CENTERS FOR MEDICARE & MEDICAID SERVICES<br>DEPARTMENT OF HEALTH AND HUMAN SERVICES   |  | 4. PROPOSED EFFECTIVE DATE:<br><br><b>April 1, 2021</b>  |                                  |
| 5. TYPE OF PLAN MATERIAL ( <i>Check One</i> ):<br><br>NEW STATE PLAN                      AMENDMENT TO BE CONSIDERED AS A NEW PLAN <input checked="" type="checkbox"/> <b>AMENDMENT</b>   |  |  |                                  |
| COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT ( <i>Separate transmittal for each amendment</i> )  |  |  |                                  |
| 6. FEDERAL STATUTE/REGULATION CITATION:<br><br><b>Social Security Act, Title, XIX, Section 1135</b>   |  | 7. FEDERAL BUDGET IMPACT:<br><br>a. FFY 2021: <b>\$8,992,000</b> _____<br>b. FFY 2022: <b>\$0</b> _____  |                                  |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:<br><br><b>Section 7 – General Provisions – Item 7.4 – Medicaid<br/>Disaster Relief for the COVID-19 National Emergency --<br/>Section E – Payments, pages 1-2, and 8 of 17</b>  |  | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):<br><br><b>Section 7 – General Provisions – Item 7.4 – Medicaid<br/>Disaster Relief for the COVID-19 National Emergency --<br/>Section E – Payments, pages 1-2, and 8 of 17 (TN 21-0005,<br/>21-0026)</b> |                                  |
| 10. SUBJECT OF AMENDMENT:<br><br><b>Requests waiver under SSA Section 1135 concerning public notice requirements and submission date. Extends the increased payments for nursing facilities and ICF/IIDs under Attachment 4.19-D to June 30, 2021 in the COVID disaster relief SPA section 7, item 7.4.</b> |  |  |                                  |
| 11. GOVERNOR'S REVIEW ( <i>Check One</i> ):<br><br>GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> <b>OTHER, AS SPECIFIED</b><br>COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <b>Governor's letter dated 14 July, 2021</b><br>NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL             |  |  |                                  |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:<br><br>  |  | 16. RETURN TO:<br><br><b>Colorado Department of Health Care Policy and Financing<br/>1570 Grant Street<br/>Denver, CO 80203-1818</b><br><br><b>Attn: Amy Winterfeld</b>  |                                  |
| 13. TYPED NAME:<br><br><b>Tracy Johnson</b>   |  |  |                                  |
| 14. TITLE:<br><br><b>Medicaid Director</b>  |  |  |                                  |
| 15. DATE SUBMITTED: <u>Initial</u> : August 24, 2021<br><br><u>Update No. 1</u> : <b>October 13, 2021</b>   |  |  |                                  |
| <b>FOR REGIONAL OFFICE USE ONLY</b>   |  |  |                                  |
| 17. DATE RECEIVED<br><br>August 24, 2021  |  | 18. DATE APPROVED<br><br>October 14, 2021  |                                  |
| <b>PLAN APPROVED – ONE COPY ATTACHED</b>  |  |  |                                  |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL<br><br>April 1, 2021  |  | 20. SIGNATURE OF REGIONAL OFFICIAL   |                                  |
| 21. TYPED NAME<br><br>Alissa Mooney DeBoy   |  | 22. TITLE<br><br>On Behalf of Anne Marie Costello, Deputy Director, CMCS   |                                  |
| 23. REMARKS   |  |  |                                  |

**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:

*Describe shorter period here.* The changes identified below are implemented for the duration of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof), unless a shorter period has been identified elsewhere in the below amendment for specific items.

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**

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.
- 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 [insert name of state] Medicaid state plan, as described below:

*Please describe the modifications to the timeline.*  
 The Department is requesting flexibility in modifying its tribal consultation timeframe, by conducting consultation within ninety (90) days after submission of the SPA.

**Section A – Eligibility**

- 1.   X   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.

*Include name of the optional eligibility group and applicable income and resource standard.*  
 The state elects to cover all uninsured individuals as defined under 1902(ss) of the Act pursuant to Section 1902(a)(10)(A)(ii)(XXIII) of the Act effective March 18, 2020.

- 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:

Location (list published location): \_\_\_\_\_

b.  Other:

*Describe methodology here.*

*Increases to state plan payment methodologies:*

2.  The agency increases payment rates for the following services:

|                                    |  |
|------------------------------------|--|
| <i>Please list all that apply.</i> |  |
|                                    | Effective April 1, 2020, and ending June 30, 2020; and again effective January 1, 2021, and ending June 30, 2021, for Nursing Facilities and ICF/IIDs under Attachment 4.19-D. |
|                                    |  |

a.  Payment increases are targeted based on the following criteria:

|                                  |  |
|----------------------------------|--|
| <i>Please describe criteria.</i> |  |
|                                  | Facilities facing atypical staffing shortages and infection control related expenses due to a public health emergency or declared state of emergency |
|                                  |  |

b. Payments are increased through:

i.  A supplemental payment or add-on within applicable upper payment limits:

|   |
|---|
| <i>Please describe.</i>   |
| Addendum to Attachment 4.19-D   |
| <b>Emergency supplemental payments and/or rate increases</b>  |
| 1. Emergency lump sum and/or per diem add-on during a public health emergency or declared state of emergency. |

ii.  An increase to rates as described below.

Rates are increased: