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State/Territory Name: Maine

State Plan Amendment (SPA) #: 21-0015

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



January 14, 2022

Michelle Probert, Director
Office of MaineCare Services
Department of Health and Human Services
109 Capitol Street, 11 State House Station
Augusta, ME 04333-0011

Re: Maine State Plan Amendment (SPA) 21-0015

Dear Director Probert:

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) 21-0015. 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 Maine 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) of the Act, CMS is approving the state's request to waive these notice requirements otherwise applicable to SPA submissions.

The State of Maine 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 approving 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 Maine Medicaid SPA Transmittal Number 21-0015 is approved effective March 1, 2020.

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

Please contact Gilson DaSilva at (617) 565-1227 or by email at gilson.dasilva@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 Maine and the health care community.

Sincerely,

Alissa M. Deboy -S Digitally signed by
Alissa M. Deboy -S
Date: 2022.01.14
08:16:31 -05'00'

Alissa Mooney DeBoy
On Behalf of Anne Marie Costello, Deputy 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
21 - 0015

2. STATE
Maine

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
March 1, 2020

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
Title XIX, Section 1135 of the Social Security Act

7. FEDERAL BUDGET IMPACT
a. FFY **2020** \$ **0**
b. FFY **2021** \$ **\$726,638**

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Section 7.4, pages 89b, 89i, 89j(0), 89m(1), and 89m(2), and 89a

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)
Section 7.4, pages 89b, 89i, 89j(0), 89m(1), and 89m(2), and 89a

10. SUBJECT OF AMENDMENT

Amends section 7.4 - Medicaid Disaster Relief for the COVID-19 National Emergency to provide the state additional flexibilities to address the COVID-19 pandemic.

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

12. SIGNATURE OF STATE AGENCY OFFICIAL

13. TYPED NAME

Michelle Probert

14. TITLE

Director, MaineCare Services

15. DATE SUBMITTED

October 29, 2021

16. RETURN TO

**Michelle Probert
Director, MaineCare Services
#11 State House Station
109 Capitol Street
Augusta, Maine 04333-0011**

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED **10/29/2021**

18. DATE APPROVED **01/14/2022**

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL **03/01/2020**

20. SIGNATURE OF REGIONAL OFFICIAL **Alissa M. Deboy -S**

Digitally signed by Alissa M. Deboy -S
Date: 2022.01.14 08:17:21 -05'00'

21. TYPED NAME **Alissa Mooney DeBoy**

22. TITLE **On behalf of Anne Marie Costello, Deputy Director
Center for Medicaid and CHIP Services**

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.

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. Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in MAINE Medicaid state plan, as described below:

Please describe the modifications to the timeline.
 The State requests that the following tribal consultation be acceptable:

 Notification to all federally recognized tribes via either call OR letter only, no later than December 31, 2021 in order to obtain a first calendar quarter in 2020 effective date.

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.

Include name of the optional eligibility group and applicable income and resource standard.
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:

Increases to state plan payment methodologies:

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

Reimbursement for all eligible providers is as follows except as specified below:

- i. COVID-19 Vaccine Administration is equal to 100% of the Medicare Maine area 99 rate.
*This also applies to the EMT authorized to administer the vaccine under the OLP benefit as described in Section D2.
 - a. Hospital APC payments for COVID-19 Vaccine administration is equal to 100% of the Maine Medicare rate including applicable geographic adjustments.
- ii. COVID-19 testing services is equal to 70% of the Medicare Maine Jurisdiction K rate, or National Medicare rate if no Jurisdiction K rate is available, unless otherwise specified below. =
 - a. Reimbursement for 87426 is based on the average of all other state Medicaid agency rates calculated on 06/10/2021. D0190 and D0191 is based on the average of all other state Medicaid agency rates calculated on 05/13/2021.

** The provisions above do not apply to FQHCs or RHCs. ***The testing provision at E.2.ii does not apply to pharmacist-administered tests, which are reimbursed using the methodology at E.4.
- iii. Adds and adjusts reimbursement for medication management services by behavioral health providers as follows:

Service Code	Modifier	Definition	Effective Date	Rate
H2010		Medication Management	10/1/2021	\$82.64
H2010	HA	Medication Management, Children’s	10/1/2021	\$94.46
H2010	AF	Medication Management, Physicians	10/1/2021	\$82.64
H2010	HA, AF	Medication Management, Children’s Physicians	10/1/2021	\$94.46
H2010	HF	Medication Management, Suboxone	8/19/2020-9/30/2021	\$65.26
H2010	HF, AF	Medication Management, Suboxone-Physician	8/19/2020-9/30/2021	\$74.56
H2010	HF	Medication Management, Suboxone	10/1/2021	\$82.64
H2010	HF, AF	Medication Management, Suboxone-Physician	10/1/2021	\$82.64

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

Please describe criteria.

b. Payments are increased through:

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

- D. The Department will provide a one-time supplemental payment to providers of behavioral health services in the amount of \$14,607,582. Payment distribution is proportionate to the calculated difference between each provider's decrease in service revenue during the months of September 2020 through February 2021 (the pandemic period) compared to service revenue during the months of September 2019 through February 2020 (the base period). Providers that maintained or increased service revenue between these two periods are not eligible for a payment. Any months during which a provider discontinued provision of an eligible service altogether during the pandemic period were excluded from both time periods. For example, if a provider only supplied eligible services in February 2021 of the pandemic period, this month alone was compared to the corresponding month from the base period, in this case February 2020.

Services include:

Providers	Billing Code	Description
Section 17	H0038	CIPSS-Self Help/peer services
Section 17	H0040	Assertive Community Treatment
Section 17	H2012	Day Support Services
Section 17	H2014	Skills Training and Development
Section 17	H2015	Community Integration Services
Section 17	H2017	Daily Living Support Services
Section 17	H2018	Community Rehabilitation Services
Section 17	H2025	Skills Development Services/training
Section 28	H2021	Community Based Wrap Around Services
Section 28	G9007	BCBA Services
Section 65	H0018	Crisis Residential
Section 65	H2011	Crisis Resolution
Section 65	H2012	Children's Behavioral Health Day Treatment
Section 65	H2021	Comprehensive Community Support Services
Section 65	H2030	Mental Health Clubhouse services
Section 65	H2033	Multi-systemic Therapy for juveniles
Section 65	S9482	Crisis Residential- in home

- E. Effective October 19, 2021, the Department will allocate a one-time COVID-19 supplemental payment among the privately owned and operated and NSGO Acute Care Non-Critical Access hospitals and Critical Access hospitals operating in the State of Maine. This supplemental payment will equal twenty-three million dollars (\$23,000,000). Of the total supplemental payment, twelve million five hundred thousand dollars (\$12,500,000) will be allocated to inpatient services and ten million five hundred thousand dollars (\$10,500,000) will be allocated to outpatient services. Each eligible hospital's payment will be allocated proportional to the MMIS base year distribution of MaineCare payments. These payments will not exceed allowable aggregate upper payment limits. This emergency supplemental payment will not be subject to cost settlement by the Department.
- F. Effective September 21, 2021, the Department will allocate a COVID-19 supplemental payment to Adult Family Care Services providers. The supplemental payment will total \$2,079,376. Payments to each facility will be allocated proportional to their 2019 full calendar year revenue as determined by the MMIS claims data distribution of MaineCare payments. For facilities that did not have a full 12 months of CY 2019 claims experience, the Department selected the period for each facility (CY2020, SFY2021, or CY2021) that reflected the highest revenue amount for the facility. For facilities where the CY2021 time period was selected per the criteria above, the Department determined an annualized amount based on the CY2021 claims available as of the date of the payment calculation. The total supplemental payment to each facility will be distributed through two payments made in September and October 2021.

- A. Residential Care Services (item 1) on Attachment 3.1A Page 5(a)(iii); Items 1(e). Emotional development skills training, 1(f). Daily living skills training, 1(g). Interpersonal skills training, and 1(h). Community skills training.
- B. Enhanced Family Treatment (item 7) on Attachment 3.1A Page 5(a)(xi): Behavior modification services.
- C. Crisis Services (item 5) on Attachment 3.1A Page 5(a)(ix): all service components of these therapeutic interventions.
- D. PNMI (item 26) on Attachment to Attachment 3.1-A Page 10(a)(ii): direct care services.

A DSP is a person who:

A. Successfully completed the Direct Support Professional curriculum as adopted by DHHS, or demonstrated proficiency through DHHS's approved Assessment of Prior Learning, or has successfully completed the curriculum from the Maine College of Direct Support within six (6) months of date of hire.

Prior to providing services to a member alone, a DSP must have completed the following four modules from the College of Direct Support, including computer based and live sessions:

- i. Introduction to Developmental Disabilities
- ii. Professionalism
- iii. Individual Rights and Choice
- iv. Maltreatment

B. Completed the following Department-approved trainings, within the first six (6) months from date of hire and thereafter every thirty-six (36) months;

- i. The Regulations Regarding Reportable Events, Adult Protective Investigations and Substantiation Hearings (14-197, Ch. 12)
- ii. Regulations Governing Behavioral Support, Modification and Management for People with Intellectual Disabilities or Autism in Maine (14-197, Ch. 5)
- iii. Rights and Basic Protections of a Person with an Intellectual Disability or Autism (Title 34-B §5605)
- iv. Grievance Training (must be completed before working with members).

C. Has a background check consistent with Section 21.10-10;

D. Has an adult protective and child protective record check;

E. Is at least eighteen (18) years of age;

F. Graduated from high school or acquired a GED;

G. Has current CPR and First Aid Certification.

H. Prior to administering medication, a DSP is legally authorized to assist with the administration of medication if the DSP is certified as a Certified Nursing Assistant-Medications (CNA-M); as a Certified Residential Medication Aide (CRMA), or a Registered Nurse (RN), or otherwise has been trained to administer medications through a training program specifically for Family-Centered or Shared Living model homes and authorized, certified, or approved by DHHS.

All new staff or subcontractors shall have six (6) months from their date of hire to obtain DSP certification.

2. Adds MHRT-I (approved on Attachment 3.1-A Page 5(a)(xxiv)(1)) and MHRT-C (approved on Attachment 3.1-A Page 5(a)(xxv)) a qualified providers to provide PNMI services (item 26) on Attachment to Attachment 3.1-A Page 10(a)(ii):

3. Behavioral Health Professional (BHP):

A. Allows additional 90 days to the allotted one year for completing BHP training after completing Module as approved on Attachment 3.1-A Page 5(a)(xxiv) BHP's provide: Residential Services for Children (item 1) on Attachment 3.1A Page 5(a)(iii); Items 1(e). Emotional development skills training, 1(f). Daily living skills training, 1(g). Interpersonal skills training, and 1(h). Community skills training, Enhanced Family Treatment (item 7) on Attachment 3.1A Page 5(a)(xi): Behavior modification services, Day Habilitation for Children with Cognitive Impairments and Functional Limitations on Attachment 3.1-A Page 5(a)(iv): all services in Day habilitation for Children with Cognitive Impairments and Functional Limitations (item 2) and Specialized Services for Children with Cognitive Impairments and Functional Limitations (item 2a) as well as Children's Behavioral Health Day Treatment (item 2b): behavioral strategies and interventions. Crisis Services (item 5) on Attachment 3.1A Page 5(a)(ix): all service components of these therapeutic interventions.

4. Reimbursement for Hospital leave days (Bed Hold days) is limited to an additional 7 days for individuals with a confirmed diagnosis of COVID. Reimbursement is consistent with NFs regular rate of reimbursement as detailed in sections 14, 15, 16, 17 and 18 of Maine's approved section 4.19-D.

TN: 21-0015

Supersedes TN: 21-0005

Approval Date: **01/14/2022**

Effective Date: 3/1/2020

5. Allows Nursing Facilities (NFs) to relocate individuals with acquired brain injuries (ABI) to a non-distinct quarantine unit (i.e., a quarantine unit in a NF that is not distinct to individuals with ABI) when diagnosed or exposed to COVID-19 and be reimbursed under ABI principles of reimbursement so long as the staff providing nursing services are appropriately ABI-credentialed. For purposes of cost settlement, all quarantine beds will be treated as NF level beds. See Attachment 4.19-D of the Maine Medicaid State Plan for all other requirements, specifics start on page 65, item 38.

6. Effective April 1, 2020, individuals receiving state plan personal care services in a residential care setting (PNMI) may temporarily relocate and quarantine to a NF bed in response to COVID-19. Individuals remain a resident of the residential care setting, and are not considered a resident or inpatient of the NF. Facilities may temporarily relocate and quarantine NF patients to a Residential Care bed in response to COVID-19. Facilities must continue to meet all staffing and licensing requirements for patients regardless of their bed location.

For the purposes of reimbursement, all quarantine beds will be treated as Appendix C PNMI beds.

7. Allows MD, PA, Psychiatrist, psychologist, LCSW, LCPC, LMFT, APRN, NP to provide Crisis Services (item 5) on Attachment 3.1A Page 5(a)(ix): all service components of these therapeutic interventions.