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State/Territory Name: Maine

State Plan Amendment (SPA) #: 22-0005

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



April 13, 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) 22-0005

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) 22-0005. 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.

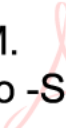
We conducted our review of your submittal according to the statutory requirements at section 1902(a) of the Act and implementing regulations. This letter is to inform you that Maine Medicaid SPA Transmittal Number 22-0005 is approved effective March 1, 2020.

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,

Anne M.
Costello -S



Digitally signed by
Anne M. Costello -S
Date: 2022.04.13
12:26:43 -04'00'

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

Cc: Kristin Merrill, State Plan Manager, Office of MaineCare Services

Enclosures

<p style="text-align: center;">TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</p> <p style="text-align: center;">FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES</p>	<p>1. TRANSMITTAL NUMBER 22 0005</p>	<p>2. STATE Maine (ME)</p>
<p>TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES</p>	<p>3. PROGRAM IDENTIFICATION: TITLE <u>XIX</u> OF THE SOCIAL SECURITY ACT</p>	
<p>5. FEDERAL STATUTE/REGULATION CITATION Title XIX, Section 1135 of the Social Security Act</p>	<p>4. PROPOSED EFFECTIVE DATE 3/1/2020</p>	
<p>7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 7.4 Page 89a, 89b, 89f, and 89j(0)(b)</p>	<p>6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)</p> <p>a. FFY 2022 2021 \$ 8,124,548 \$4,858,023</p> <p>b. FFY 2023 2022 \$ 3,240,613 \$936,992</p>	
<p>9. 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.</p>	<p>8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Section 7.4 Page 89a, 89b, and 89f</p>	

10. 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

<p>11. SIGNATURE OF STATE AGENCY OFFICIAL</p> <div style="background-color: black; width: 100%; height: 30px;"></div>	<p>15. RETURN TO Michelle Probert Director, MaineCare Services #11 State House Station 109 Capitol Street Augusta, Maine 04333-0011</p>
<p>12. TYPED NAME Michelle Probert</p>	<p>16. DATE RECEIVED 01/20/2022</p>
<p>13. TITLE Director, MaineCare Services</p>	
<p>14. DATE SUBMITTED January 20, 2022</p>	

FOR CMS USE ONLY	
<p>16. DATE RECEIVED 01/20/2022</p>	<p>17. DATE APPROVED 04/13/2022</p>

PLAN APPROVED - ONE COPY ATTACHED	
<p>18. EFFECTIVE DATE OF APPROVED MATERIAL 03/01/2020</p>	<p>19. SIGNATURE OF APPROVING OFFICIAL Anne M. Costello -S</p>
<p>20. TYPED NAME OF APPROVING OFFICIAL Alissa Mooney DeBoy</p>	<p>21. TITLE OF APPROVING OFFICIAL On behalf of Anne Marie Costello, Deputy Director Center for Medicaid and CHIP Services</p>

22. REMARKS

04/08/2022 - Maine authorized a pen-and-ink revision to correct the fiscal impact amounts listed in box 6.

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. X 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 March 31, 2022 in order to obtain a first calendar quarter in 2020 effective date.

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.
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:

2. The agency makes the following adjustments to benefits currently covered in the state plan

Pursuant to 42 CFR 440.30(d), the state covers laboratory tests (including self-collected tests authorized by the FDA for home use) that do not meet one or more conditions specified in 42 CFR 440.30(a) and (b).

Adds pharmacists, working within their scope of practice, to administer COVID-19 tests under the approved Other Licensed Practitioner benefit category, Item 6d.

Allows the following Advanced Practice Providers to be considered qualified providers for the purpose of ordering and recertifying a Plan of Care for Private Duty Nursing Services under Maine's Medicaid State Plan *ATTACHMENT 3.1-A Page 3(j)*:

- a. Physician Assistants
- b. Nurse Practitioners
- c. Clinical Nurse Specialists

Adds Emergency Medical Technicians (EMTs), working within their scope of practice, to administer COVID-19 vaccinations under the approved Other Licensed Practitioner benefit category, Item 6d.

Waives minimum occupancy penalty for Nursing Facilities, found in Attachment 4.19-D principal 18.8, starting with facility fiscal years ending June 30, 2020 and through the end of the PHE, for those facilities with at least one month of service delivery under the PHE.

3. The agency assures that newly added benefits or adjustments to benefits comply with all applicable statutory requirements, including the state-wideness requirements found at 1902(a)(1), comparability requirements found at 1902(a)(10)(B), and free choice of provider requirements found at 1902(a)(23).

4. Application to Alternative Benefit Plans (ABP). The state adheres to all ABP provisions in 42 CFR Part 440, Subpart C. This section only applies to states that have an approved ABP(s).
- a. The agency assures that these newly added and/or adjusted benefits will be made available to individuals receiving services under ABPs.
 - b. Individuals receiving services under ABPs will not receive these newly added and/or adjusted benefits, or will only receive the following subset:

Please describe.

Telehealth:

5. The agency utilizes telehealth in the following manner, which may be different than outlined in the state's approved state plan:

Services rendered by a qualified professional actively enrolled in MaineCare or contracted through an enrolled MaineCare provider.

Telephone evaluation and management (E/M) services are not to be billed if clinical decision-making dictates a need to see the member for an office visit within 24 hours or at the next available appointment. In those circumstances, the telephone service shall be considered a part of the subsequent office visit. If the telephone call follows an office visit performed and reported within the past seven (7) days for the same diagnosis, then the telephone services are considered part of the previous office visit and are not separately billable. The services are as follows:

H. Supplemental payments will be issued to the following provider types. The amounts identified below represent the total allocation per provider type. Payments to providers are allocated proportional to FFY 2021 revenue for these services as determined by the MMIS claims data distribution of MaineCare payments. Supplemental payments per provider will be distributed in equal monthly payments to eligible providers during the months of January 2022 through the earlier of either December 2022 or the end of the Federal PHE.

Provider Type	Total payment
2-Adult Family Care Services	\$ 270,336
26-Day Health Services	\$ 50,985
65-Behavioral Health	\$ 7,492,425