

## **Table of Contents**

**State/Territory Name: Maine**

**State Plan Amendment (SPA) #: 22-0025**

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



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August 10, 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) 22-0025

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) 22-0025. 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 Maine 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 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 Maine's Medicaid SPA Transmittal Number 22-0025 is approved effective April 1, 2021.

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](mailto: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: 2022.08.10  
08:24:26 -04'00'

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

Enclosures

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

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>	1. TRANSMITTAL NUMBER <b>22 - 0025</b>	2. STATE <b>Maine</b>
	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 <b>4/1/2021</b>
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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 <b>Title XIX, Section 1135 of the Social Security Act, 9817 ARP</b>	7. FEDERAL BUDGET IMPACT a. FFY <b>2022</b> \$ <b>0</b> b. FFY <b>2023</b> \$ <b>0</b>
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT <b>Section 7.4, Page 89j(0)(a)</b>	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ) <b>Section 7.4, Page 89j(0)(a)</b>
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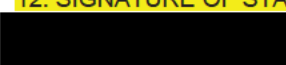
10. SUBJECT OF AMENDMENT  
**Alters previously approved date for DSW recruitment and retention bonus payments to staff- 9817 American Rescue Plan Act of 2021 (ARP) (Pub. L. 117-2)**

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 	16. RETURN TO <b>Michelle Probert Director, MaineCare Services #11 State House Station 109 Capitol Street Augusta, Maine 04333-0011</b>
13. TYPED NAME <b>Michelle Probert</b>	
14. TITLE <b>Director, MaineCare Services</b>	
15. DATE SUBMITTED <b>05/31/2022</b>	

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED <b>05/31/2022</b>	18. DATE APPROVED <b>08/10/2022</b>
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**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL <b>04/01/2021</b>	20. SIGNATURE OF REGIONAL OFFICIAL <b>Alissa M. Deboy -S</b> <small>Digitally signed by Alissa M. Deboy -S Date: 2022.08.10 08:24:52 -04'00'</small>
21. TYPED NAME <b>Alissa Mooney DeBoy</b>	22. TITLE <b>On behalf of Anne Marie Costello, Deputy Director Center for Medicaid and CHIP Services</b>

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

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 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 June 30, 2022 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:

G. The Department will provide supplemental payments to the following provider types, totaling \$68,808,666, to fund recruitment and retention bonuses to new and existing direct support workers (DSWs) and their immediate supervisors. Payments by agencies to staff must occur between July 1, 2021 and December 31, 2022. Staff must be employed by the agency at the time of payment. Payments supplement services provided during the PHE. The allocation for each agency that offer services through these provider types will total approximately 10% of 2019 calendar year (CY) revenue as determined by the MMIS claims data distribution of MaineCare payments, or a more recent period if an agency did not have 12 months of claims in CY 2019 or has expanded services since CY19, resulting in a revenue increase of at least 25%. The first payment will be made within one month of CMS approval of the state plan amendment and will be approximately one-quarter of the total. The second and final payment will be made within two months of CMS approval or 3/31/2022, whichever is sooner.

<b>Provider Types</b>
2-Adult Family Care
12-Consumer Directed
13-Targeted Case Management
17-Community Support
26-Day Health
28-Rehab & Comm Supp for Children w/CI or FL
40-Home Health
65-Behavioral Health
92-Behavioral Health Home
93-Opioid Health Home
96-Private Duty Nursing/Personal Care
97-Appendix B-SUD Treatment
97-Appendix D-Children’s Residential
97-Appendix E-MI
97-Appendix F-Non-Case Mix Medical/Remedial