

## **Table of Contents**

**State/Territory Name: Maine**

**State Plan Amendment (SPA) #: 22-0045**

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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March 8, 2023

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) 22-0045

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) 22-0045. This amendment proposes to add supplemental payments to several providers.

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 22-0045 is approved effective July 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: 2023.03.08  
08:12:12 -05'00'

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

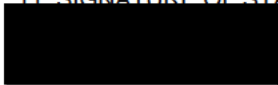
<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>	1. TRANSMITTAL NUMBER <b>22 0045</b>	2. STATE <b>Maine (ME)</b>
	3. PROGRAM IDENTIFICATION: TITLE <b>XIX</b> OF THE SOCIAL SECURITY ACT	
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE <b>July 1, 2021</b>	
5. FEDERAL STATUTE/REGULATION CITATION <b>Title XIX, Section 1135 of the Social Security Act</b>	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <b>2021</b> \$ <b>13,983</b> b. FFY <b>2022</b> \$ <b><del>48,603,389</del> \$395,339</b>	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT <b>Section 7.4 Page 89a, 89b, 89j(0)(e) and 89j(0)(f)</b>	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) <b>Section 7.4 Page 89a and 89b</b>	

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.**

10. GOVERNOR'S REVIEW (Check One)

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 	15. RETURN TO <b>Michelle Probert Director, MaineCare Services #11 State House Station 109 Capitol Street Augusta, Maine 04333-0011</b>
12. TYPED NAME <b>Michelle Probert</b>	
13. TITLE <b>Director, MaineCare Services</b>	
14. DATE SUBMITTED <b>12/30/2022</b>	

**FOR CMS USE ONLY**

16. DATE RECEIVED <b>12/30/2022</b>	17. DATE APPROVED <b>03/08/2023</b>
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**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL <b>07/01/2021</b>	19. SIGNATURE OF APPROVING OFFICIAL <b>Alissa M. Deboy -S</b> <small>Digitally signed by Alissa M. Deboy -S Date: 2023.03.08 09:12:29 -0500</small>
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20. TYPED NAME OF APPROVING OFFICIAL <b>Alissa Mooney DeBoy</b>	21. TITLE OF APPROVING OFFICIAL <b>On behalf of Anne Marie Costello, Deputy Director Center for Medicaid and CHIP Services</b>
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22. REMARKS  
**02/21/2023 - Maine agreed to pen-and-ink revision to update the FFY22 fiscal impact to \$395,339.**

**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).

TN: 22-0045

Supersedes TN: 22-0025

Approval Date: **03/08/2023**

Effective Date: 7/1/21

- 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, 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:

- K. Amends *Attachment 4.19-D Page 46, principle 18.11* effective July 1, 2021 through June 30, 2022, by eliminating the requirement for base year direct and routine aggregate costs per day to be less than the median aggregate direct and routine allowable costs for the facility's peer group, so that all facilities with MaineCare days constituting more than 80% of total days across all payers will receive a High MaineCare Utilization Payment of \$0.60 per diem for each one percentage (1%) of MaineCare days above eighty percent (80%).
- L. Effective October 19, 2022, 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-five million dollars (\$25,000,000). Of the total supplemental payment, fourteen million five hundred thousand dollars (\$14,500,000) 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.
- M. No later than December 31, 2022, the Department will allocate a one-time COVID-19 temporary payment adjustment to nursing facilities that provide comprehensive care to MaineCare veterans to meet their unique needs. In order to receive payment, a nursing facility must meet the following criteria:
1. The facility provides critical access to veteran-focused care, including specialized training and care of war-related injuries and conditions, such as Post Traumatic Stress Disorder (PTSD) and service-connected disabilities;
  2. The nursing facility is subject to Department of Veterans Affairs (VA) regulations, oversight, and reporting requirements;
  3. The nursing facility board of directors is appointed by the governor; and
  4. The nursing facility participates in the Maine Public Employees Retirement System.

**Principle.** A nursing facility that qualifies under this section will be reimbursed annually for services provided to residents covered under Title XIX of the United States Social Security Act based on audited cost reports.

**Rate Setting.** The temporary payment adjustment will be calculated using uniform cost reports filed by the facilities, under the following methodology:

1. The difference between the MaineCare payments and actual allowed MaineCare costs as reported on the 2021 cost reports for all eligible nursing facility services delivered by eligible nursing facilities as defined above;
2. The temporary payment adjustment across all eligible facilities shall not exceed the lesser of \$2,442,200, or the difference as calculated under Step 1;
3. Each facility's annual payment adjustment shall be proportionate to its overall share of the amount calculated under Step 1 and limited to the aggregate amount across all facilities available under Step 2; and
4. For each facility, if the amount calculated under Step 1 is greater than or equal to zero, the facility is not eligible for the temporary adjustment.

**Audit.** The annual payment is subject to the year-end uniform desk review audit and will be adjusted not to exceed the actual allowable costs of providing services to eligible residents.

N. Effective August 3, 2022, the Department will allocate a COVID-19 supplemental payment to Adult Family Care Services providers. The supplemental payment will total \$535,750. 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.