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State/Territory Name: Maine

State Plan Amendment (SPA) #: 23-0005

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



June 16, 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) 23-0005

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 on March 31, 2023, under transmittal number (TN) 23-0005. 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 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 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's Medicaid SPA Transmittal Number 23-0005 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,

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

<p>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</p> <p>FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES</p>	<p>1. TRANSMITTAL NUMBER 23 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 XIX 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 03/01/2020</p>	
<p>7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 7.4 Pages 89a, 89b, 89j(0)(f), 89(j)(1) , 89(h) Attachment 7.7 A, 7.7 B, 7.7 C</p>	<p>6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)</p> <p>a. FFY 2020 \$ 0</p> <p>b. FFY 2021 \$ 0</p>	
<p>9. SUBJECT OF AMENDMENT</p>	<p>8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Section 7.4 Pages 89a, 89b, 89j(0)(f), 89(j)(1) and NEW 89(h)</p>	

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:

<p>OFFICIAL</p>	<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>13. TITLE Director, MaineCare Services</p>	
<p>14. DATE SUBMITTED March 31, 2023</p>	

FOR CMS USE ONLY

<p>16. DATE RECEIVED 03/31/2023</p>	<p>17. DATE APPROVED 06/16/2023</p>
PLAN APPROVED - ONE COPY ATTACHED	
<p>18. EFFECTIVE DATE OF APPROVED MATERIAL 03/01/2020</p>	<p>19. SIGNATURE OF APPROVING OFFICIAL</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

05/15/2023 - ME provided P&I authority to update Box 7 by removing the references to Attachments 7.7-A, 7.7-B and 7.7-C, and to add Page 89(h) in Box 7 and Box 8.

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 May 11, 2023 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:

Drug Benefit:

- 6. The agency makes the following adjustments to the day supply or quantity limit for covered outpatient drugs. The agency should only make this modification if its current state plan pages have limits on the amount of medication dispensed.

State is requesting they waive any signature requirements for the dispensing of drugs during the Public Health Emergency.

- 7. Prior authorization for medications is expanded by automatic renewal without clinical review, or time/quantity extensions.
- 8. The agency makes the following payment adjustment to the professional dispensing fee when additional costs are incurred by the providers for delivery. States will need to supply documentation to justify the additional fees.

Please describe the manner in which professional dispensing fees are adjusted.

- 9. The agency makes exceptions to their published Preferred Drug List if drug shortages occur. This would include options for covering a brand name drug product that is a multi-source drug if a generic drug option is not available.

Section E – Payments

Optional benefits described in Section D:

- 1. Newly added benefits described in Section D are paid using the following methodology: Reimbursement is as follows unless otherwise specified under E(1)(b).
 - a. Published fee schedules -
 - Effective date (enter date of change): _
 - Location (list published location): _
 - b. Other:

- 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.
- O. Effective for services provided between August 2022 and the end of the federal PHE, 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, CY2021, or CY2022) that reflected the highest revenue amount for the facility. For facilities where the CC2022 time period was selected per the criteria above, the Department determined an annualized amount based on the CY2022 claims available as of the date of the payment calculation.
- P. Effective for services provided during the Federal Public Health Emergency, 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 2016 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

- i. An increase to rates as described below.

Rates are increased:

Uniformly by the following percentage: _____

Through a modification to published fee schedules –
Effective date (enter date of change): effective 01/01/2023:

Location (list published location):

<https://mainecare.maine.gov/Provider%20Fee%20Schedules/Forms/Publication.aspx?RootFolder=%2FProvider%20Fee%20Schedules%2FRate%20Setting%2FSection%20002%20%2D%20Adult%20Family%20Care%20Services&View=%7B69CEE1D4%2DA5CC%2D4DAE%2D93B6%2D72A66DE366E0%7D>

Up to the Medicare payments for equivalent services.

By the following factors:

A. Private Non-Medical Institution Reimbursement for Substance Abuse Treatment Facilities is increased uniformly by 23.9% effective 3/1/2020.*

Private Non Medical Institution Reimbursement for Child Care Facilities is increased uniformly by 17.2% effective 6/1/2020.*

**The Department reserves the right to cease payment of rate increases at any time, with proper provider notification, to ensure that the providers identified above do not receive duplicate reimbursement for COVID-related costs in the event that other state and/or federal funding opportunities become available.*

**rate increases and supplemental pool payments will sunset at the end of the public health emergency

NOTE: The above Private Non Medical Institution payment provisions have been amended in Section 7.4.A by ME-20-0023-A effective June 1, 2020.

B. Private Non-Medical Institution Reimbursement

The following facilities will receive increased reimbursement rates as identified below when there has been a COVID-19 outbreak. Reimbursement is time-limited for the period the facility has a confirmed outbreak. Outbreaks of COVID-19 in congregate care facilities are defined as three cases or more within a fourteen-day period. Cases include cases among both residents and staff. Maine CDC will close an outbreak once 28 days have passed with no additional cases. Confirmation of an outbreak and of the end of an outbreak will be provided by the Maine Center for Disease Control (CDC) and reported to MaineCare.

- a. Private Non-Medical Institution Reimbursement for Substance Abuse Treatment Facilities is increased during outbreaks uniformly by 23.9% effective 6/1/2020
- b. Private Non-Medical Institution Reimbursement for Child Care Facilities is increased during outbreaks uniformly by 17.2% effective 6/1/2020.