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State/Territory Name: Montana

State Plan Amendment (SPA) #: 23-0007

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approval SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

April 4, 2024

Mike Randol, Medicaid Director
Department of Public Health and Human Services
PO Box 4210
Helena, MT 59620

Re: MT 23-0007 §1915(k) Community First Choice State Plan Amendment (SPA)

Dear Director Randol:

The Centers for Medicare & Medicaid Services (CMS) is approving the state's request to amend its state plan 1915(k) Community First Choice (CFC) benefit, transmittal number MT 23-0007.

CMS conducted the review of the state's submittal according to statutory requirements in Title XIX of the Social Security Act and relevant federal regulations. The SPA is approved effective May 12, 2023. Enclosed is a copy of the approved state plan amendment (SPA).

It is important to note that CMS' approval of this new 1915(k) CFC state plan benefit solely addresses the state's compliance with the applicable Medicaid authorities. CMS' approval does not address the state's independent and separate obligations under federal laws including, but not limited to, the Americans with Disabilities Act, §504 of the Rehabilitation Act, or the Supreme Court's Olmstead decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the Olmstead decision is available at http://www.ada.gov/olmstead/q&a_olmstead.htm.

If you have any questions concerning this information, please contact me at (410) 786-7561. You may also contact Laurie Jensen at Laurie.Jensen@cms.hhs.gov or (303) 844-7126.

Sincerely,

George P.
Failla Jr -S

Digitally signed by George
P. Failla Jr -S
Date: 2024.04.04
15:35:11 -04'00'

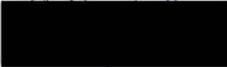
George P. Failla Jr., Director
Division of HCBS Operations and Oversight

cc: Michele Weller, CMS
Dominique Mathurin, CMS
Wendy Hill Petras, CMS
Shante Shaw, CMS
Amanda Hill, CMS
Mary Eve Kulawik, MT

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER 23 - 0007	2. STATE MT
	3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT ✓ XIX XXI	
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE 05/12/2023	
5. FEDERAL STATUTE/REGULATION CITATION 42 CFR 441.510 42 CFR 441.530	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY 23 \$ 920,477 b. FFY 24 \$ 2,341,380	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Supplement to Attachment 3.1 - K Service 1915K, Community First Choice Pages 1, 14-17 of 29	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Supplement to Attachment 3.1 - K Service 1915K, Community First Choice Pages 1, 14-17 of 29	

9. SUBJECT OF AMENDMENT

Community First Choice will be amended to apply the spousal impoverishment rules in determining eligibility for married applicants who are eligible for CFC services under the 1915(k), add compliance language regarding Electronic Visit verification, and describe the HCBS quality assurance process. The SPA also proposes to allow services to be furnished in provider owned and controlled settings.

10. GOVERNOR'S REVIEW (Check One) <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	<input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Single Agency Review
11. SIGNATURE OF STATE AGENCY OFFICIAL 	15. RETURN TO: Montana Department of Public Health and Human Services State Medicaid Director Attn: Mary Eve Kulawik PO Box 4210, Helena, MT 59601
12. TYPED NAME Michael Randol	
13. TITLE Medicaid and Health Services Executive Director/ State Medicaid Director	
14. DATE SUBMITTED Original Submittal 6/8/2023 Resubmittal 3/26/2024 Resubmittal 4/1/2024	

FOR CMS USE ONLY

16. DATE RECEIVED 06/8/2023	17. DATE APPROVED 04/04/2024
PLAN APPROVED - ONE COPY ATTACHED	
18. EFFECTIVE DATE OF APPROVED MATERIAL 5/12/2023	19. SIGNATURE OF APPROVING OFFICIAL George P. Failla Jr -S Digitally signed by George P. Failla Jr -S Date: 2024.04.04 15:35:34 -04'00'
20. TYPED NAME OF APPROVING OFFICIAL George P. Failla Jr.	21. TITLE OF APPROVING OFFICIAL Director, Division of HCBS Operations and Oversight
22. REMARKS Per State on 4/03/2024 pen and ink change made on Box 8	

State Plan Under Title XIX of the Social Security Act
MONTANA:
Community First Choice State Plan Option

Note: Community First Choice (CFC) and Community First Choice Option (CFCO) are used interchangeably in this document to reference Montana’s Community First Choice State Plan Option.

i. Eligibility

The State determines eligibility for Community First Choice (CFC) services in the manner prescribed under 42 CFR 441.510. To receive Community First Choice (CFC) services and supports individuals must meet the following requirements:

- (a) Be eligible for medical assistance under the State Plan;
- (b) As determined annually—
 - (1) Be in an eligibility group under the State Plan that includes nursing facility services; or
 - (2) If in an eligibility group under the State Plan that does not include such nursing facility services have an income that is at or below 150 percent of the Federal poverty level (FPL).* In determining whether the 150 percent of the FPL requirement is met, States must apply the same methodologies as would apply under their Medicaid State Plan, including the same income disregards in accordance with section 1902(r) (2) of the Act; and
 - (*) Nursing facility services are included in the State Plan services for Categorically Needy and Medically Needy groups under Montana Medicaid. Because Montana provides coverage for nursing facility services to all categorically needy and medically needy individuals to whom the services may be offered, no individuals at present meet the description in (b)(2) under Montana’s State Plan.
- c) Receive a determination, at least annually, that in the absence of the home and community-based attendant services and supports provided under this subpart, the individual would otherwise require the level of care furnished in a hospital, a nursing facility, an intermediate care facility for individuals with intellectual disabilities, an institution providing psychiatric services for individuals under age 21, or an institution for mental diseases for individuals age 65 or over, if the cost could be reimbursed under the State Plan. The State may permanently waive the annual recertification requirement for an individual if:
 - (1) It is determined that there is no reasonable expectation of improvement or significant change in the individual’s condition because of the severity of a chronic condition or the degree of impairment of functional capacity; and
 - (2) The state agency, or designee, retains documentation of the reason for waiving the annual recertification requirement.
- d) For purposes of meeting the criterion under paragraph (b) of this section, individuals who qualify for medical assistance under the special home and community-based waiver eligibility group defined at section 1902(a)(10)(A)(ii)(VI) of the Act must meet all section 1915(c) requirements and receive at least one home and community-based waiver service per month.
- e) Individuals receiving services through Community First Choice will not be precluded from receiving other home and community-based long-term care services and supports through other Medicaid State Plan, waiver, and grant or demonstration authorities but will not be allowed to receive duplicative services in CFC or any other available community based service.

The Quality Improvement Organization performs level of care assessments for nursing facility placement, preadmission screening, CFC functional assessments, and utilization and review of multiple Medicaid contracts. They coordinate with medical professionals, nursing facilities and hospitals; as well as community members and Medicaid eligible individuals to provide information and assistance on long term care options.

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ii. Electronic Visit Verification

The State complies with the Electronic Visit Verification System (EVV) requirements for Community First Choice Services (CFCS).

iii. Home and Community-Based Settings

CFC services will be provided in residential settings, which will be limited to those in which the State determines that the setting requirements outlined in 42.CFR 441.530 are met. The State has established CFC Residential Criteria to ensure compliance with this requirement. If a setting does not meet the CFC Residential Criteria it is not deemed “residential” and, therefore, is ineligible for CFC services. CFC residential settings include individual homes, apartment buildings, retirement homes, and group living environments that meet the CFC Residential Criteria. CFC services are not available in any of the settings outlined in Section 1915(k)(1)(A)(ii) of the Act; nursing facility, institution for mental diseases, hospitals providing long-term care services, or an Intermediate Care Facility for Individuals with Intellectual Disability. In addition, CFC services are typically not available in developmental disability group homes, mental health group homes, adult foster homes, and assisted living environments. These settings are explicitly excluded because personal assistance is already included as part of their rate. CFC services may be provided in private residences and in provider owned or controlled settings where the beneficiary lives in a private residence owned by an unrelated caregiver (who is paid for providing HCBS services to the individual). Any permissible modifications of rights within a provider owned and controlled setting is incorporated into an individual’s person-centered service plan and meets the requirements of 42 CFR 441.530(a)(vi)(F).

HCBS Quality Assurance:

The quality assurance process for CFC services ensures that services and settings are monitored prior to the delivery of CFCS (at intake) and at least every six months, or more frequently if necessary. Monitoring includes an in-person visit with the consumer, and/or their guardian and any other individuals the consumer chooses to have present. Monitoring includes the completion of a settings attestation tool. It also uses visual cues related to the consumer condition; verbal cues reported by the consumer and those in attendance through open-ended discourse; review of service delivery documentation and planning documents; and historical context from previously documented visits and events.

This approach ensures that services and settings are assessed at a point-in-time; but also related to a broader scope of service outcomes over the course of time. The visits are documented specified forms. Findings that require remediation and actions steps are clearly documented on the form. The CFC Planner and/or CFC Provider provide appropriate oversight of all action plans. Department quality assurance staff review the CFC Planner and CFC Provider oversight efforts to ensure monitoring occurs and that findings are documented appropriately and include follow-up, when necessary. This review activity, including the frequency and measurement standards, are further outlined in the CFC SPA.

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