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State/Territory Name: **New Jersey**

State Plan Amendment (SPA) #: **22-0021**

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

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



December 16, 2022

Jennifer Langer Jacobs
Assistant Commissioner
NJ Department of Human Services
Division of Medical Assistance and Health Services
PO Box 712, Mail Code #26
Trenton, NJ 08625-0712

Re: New Jersey State Plan Amendment (SPA) #22-0021

Dear Ms. Jacobs:

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) #22-0021. 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 New Jersey 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), CMS is approving the state's request to waive these notice requirements otherwise applicable to SPA submissions.

These waivers or modifications of the requirements related to SPA submission timelines and public notice 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 New Jersey's Medicaid SPA Transmittal Number #22-0021 is approved effective March 1, 2020.

Enclosed is a copy of the CMS-179 summary form and the approved state plan pages.

Please contact Terri Fraser at (410) 786-5573 or by email at Terri.Fraser@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 New Jersey and the health care community.

Sincerely,

Alissa M.
Deboy -S

Digitally signed by Alissa
M. Deboy -S
Date: 2022.12.16
08:16:53 -05'00'

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

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 2 — 0 0 2 1

2. STATE

NJ

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

March 1, 2020

5. FEDERAL STATUTE/REGULATION CITATION
National Emergencies Act (50 U.S.C. 1601 et seq.); Section 1135 of the Social Security Act (SSA) and Title XIX of the SSA (P&I change)

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2020 \$ 0
b. FFY 2021 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Section 7.4 Pages 89 a through 89 l

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

same

9. SUBJECT OF AMENDMENT

Disaster Relief SPA to waive any signature requirements for the dispensing of drugs during the Public Health Emergency.

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:

[Redacted]

Sarah Adelman

13. TITLE
Commissioner, Department of Human Services

14. DATE SUBMITTED
November 28, 2022

15. RETURN TO

Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance and Health Services
P.O. Box 712, Mail Code #26
Trenton, NJ 08625-0712

FOR CMS USE ONLY

16. DATE RECEIVED
11/28/2022

17. DATE APPROVED
12/16/2022

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
03/01/2020

19. SIGNATURE OF APPROVING OFFICIAL
Alissa M. Deboy -S

Digitally signed by Alissa M. Deboy -S
Date: 2022.12.16 08:17:20 -05'00'

20. TYPED NAME OF APPROVING OFFICIAL
Alissa Mooney DeBoy On Behalf of Anne Marie Costello

21. TITLE OF APPROVING OFFICIAL
Deputy Director, Center for Medicaid and CHIP Services

22. REMARKS
Box 5: CMS made P&I change on 12/15/22 to add statutory citations.

State/Territory: New Jersey **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:

<i>Describe shorter period here.</i>

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

State/Territory: New Jersey

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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:

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Less restrictive resource methodologies:

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4. ___ The agency considers individuals who are evacuated from the state, who leave the state for medical reasons related to the disaster or public health emergency, or who are otherwise absent from the state due to the disaster or public health emergency and who intend to return to the state, to continue to be residents of the state under 42 CFR 435.403(j)(3).
5. ___ The agency provides Medicaid coverage to the following individuals living in the state, who are non-residents:

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6. ___ The agency provides for an extension of the reasonable opportunity period for non-citizens declaring to be in a satisfactory immigration status, if the non-citizen is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency is unable to complete the verification process within the 90-day reasonable opportunity period due to the disaster or public health emergency.

Section B – Enrollment

1. x The agency elects to allow hospitals to make presumptive eligibility determinations for the following additional state plan populations, or for populations in an approved section 1115 demonstration, in accordance with section

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1902(a)(47)(B) of the Act and 42 CFR 435.1110, provided that the agency has determined that the hospital is capable of making such determinations.

Please describe the applicable eligibility groups/populations and any changes to reasonable limitations, performance standards or other factors.

During the emergency, allow hospitals to make presumptive eligibility determinations for the following non-MAGI populations:

- **Individuals Eligible For But Not Receiving Cash Assistance (all populations) —section 1902(a)(10)(A)(ii)(I) of the Act**
- **Individuals Eligible for Cash Except for Institutionalization—section 1902(a)(10)(A)(ii)(IV) of the Act**
- **Both “217-Like” eligibility populations (“Special Income Level” and “Aged and Disabled”) served under the terms of the New Jersey FamilyCare Comprehensive 1115 Demonstration.**
- **Optional State Supplement Beneficiaries—section 1902(a)(10)(A)(ii)(XI) of the Act**
- **Individuals in Institutions Eligible under a Special Income Level (ABD only)—section 1902(a)(10)(A)(ii)(V) of the Act**
- **Age and Disability-Related Poverty Level Group—section 1902(a)(10)(A)(ii)(X) of the Act**

As is noted below, New Jersey requests the authority to add an additional presumptive eligibility period to all groups during the COVID-19 crisis. Our approved state plan currently allows one such period per pregnancy or per 12 month period for all other individuals. We are requesting that this be expanded to two such periods during the emergency. The 12-month period begins with the effective date of the initial PE determination.

2. x The agency designates itself as a qualified entity for purposes of making presumptive eligibility determinations described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Subpart L.

Please describe any limitations related to the populations included or the number of allowable PE periods.

During the emergency period, allow DMAHS to make presumptive eligibility determinations for the following populations; Medicaid and infants and children up to age 19, (42 CFR 435.118) parents, (42 CFR 435.110) single adults between the ages of 19-64 (42 CFR 435.119), and pregnant women (42 CFR 435.116).

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As is noted below, New Jersey requests the authority to add an additional presumptive eligibility period to all groups during the COVID-19 crisis. Our approved state plan currently allows one such period per pregnancy or per 12 month period for all other individuals. We are requesting that this be expanded to two such periods during the emergency. The 12-month period begins with the effective date of the initial PE determination.

3. The agency designates the following entities as qualified entities for purposes of making presumptive eligibility determinations or adds additional populations as described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Subpart L. Indicate if any designated entities are permitted to make presumptive eligibility determinations only for specified populations.

Please describe the designated entities or additional populations and any limitations related to the specified populations or number of allowable PE periods.

Reference New Jersey approved SPA 13-0011 where the state has elected to designate certain qualified entities to make PE determinations for these MAGI groups: Adults 19-64 up to 133%FPL, Children, Pregnant Women, and Parents and Caretaker Relatives. New Jersey requests to increase the number of PE periods from one per pregnancy to two, and from one per twelve month period beginning with the effective date of the initial PE period to two.

4. The agency adopts a total of months (not to exceed 12 months) continuous eligibility for children under age enter age (not to exceed age 19) regardless of changes in circumstances in accordance with section 1902(e)(12) of the Act and 42 CFR 435.926.
5. The agency conducts redeterminations of eligibility for individuals excepted from MAGI-based financial methodologies under 42 CFR 435.603(j) once every months (not to exceed 12 months) in accordance with 42 CFR 435.916(b).
6. The agency uses the following simplified application(s) to support enrollment in affected areas or for affected individuals (a copy of the simplified application(s) has been submitted to CMS).
- a. The agency uses a simplified paper application.
 - b. The agency uses a simplified online application.
 - c. The simplified paper or online application is made available for use in call-centers or other telephone applications in affected areas.

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Section C – Premiums and Cost Sharing

1. The agency suspends deductibles, copayments, coinsurance, and other cost sharing charges as follows:

Please describe whether the state suspends all cost sharing or suspends only specified deductibles, copayments, coinsurance, or other cost sharing charges for specified items and services or for specified eligibility groups consistent with 42 CFR 447.52(d) or for specified income levels consistent with 42 CFR 447.52(g).

2. The agency suspends enrollment fees, premiums and similar charges for:

- a. All beneficiaries
- b. The following eligibility groups or categorical populations:

Please list the applicable eligibility groups or populations.

3. The agency allows waiver of payment of the enrollment fee, premiums and similar charges for undue hardship.

Please specify the standard(s) and/or criteria that the state will use to determine undue hardship.

Section D – Benefits

Benefits:

1. The agency adds the following optional benefits in its state plan (include service descriptions, provider qualifications, and limitations on amount, duration or scope of the benefit):

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

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Personal Care Assistant Services (PCA): New Jersey is requesting authority to allow that PCA services can be provided by family members other than legally responsible relatives. Authority to allow PCA services provided by legally responsible relatives was separately requested in New Jersey's 1135 request.

Care Management Organization (CMO) Targeted Case Management Staffing requirements: New Jersey's State Plan at Supplement 1 B to Attachment 3.1A page 2a provides for a ratio of one supervisor for each 10 care coordinators. New Jersey is requesting a suspension of these minimum staffing ratios impacted by COVID-19 for Children's System of Care (CSOC) providers.

3. x The agency assures that newly added benefits or adjustments to benefits comply with all applicable statutory requirements, including the statewideness 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. x 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. x 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. x The agency utilizes telehealth in the following manner, which may be different than outlined in the state's approved state plan:

Please describe.

To the extent permitted by state law and regulations (including all state Executive Orders and waivers), Medicaid will reimburse for any service provided via telehealth and associated telecommunication at the same rate that would be paid had the service been provided in-person. No specific prior authorization is required based on telehealth modality. Documentation requirements and licensure standards remain unchanged.

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Services provided via telehealth and telecommunication shall be required to meet all requirements in state or federal statutes or regulations for the provision of telehealth and telecommunication as well as the service being provided. In the absence of a statute or regulation pertaining to specific provisions for telehealth or telecommunication, services are provided following all applicable laws and regulations for the base service being provided.

Drug Benefit:

6. x 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.

Please describe the change in days or quantities that are allowed for the emergency period and for which drugs.

The current prescription refill policy consists of reimbursement for pharmacy claims for a 34 day's supply or 100 units, whichever is greater. During the COVID-19 emergency, this policy will be loosened to provide for early prescription refills and drug quantities up to a 90 day's supply.

Although Medicaid does not pay for non-FDA approved, investigational, cosmetic, experimental or clinical trial products, exception may be made at the State's discretion during the COVID-19 emergency for investigational products for the specific purpose of COVID-19 treatment

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

7. x 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.

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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:
 - a. Published fee schedules –
 - Effective date (enter date of change): _____
 - Location (list published location): _____

- b. Other:

Describe methodology here.

Increases to state plan payment methodologies:

- 2. The agency increases payment rates for the following services:

- a. Payment increases are targeted based on the following criteria:

Please describe criteria.

- b. Payments are increased through:

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- i. A supplemental payment or add-on within applicable upper payment limits:

- ii. 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):

Location (list published location):

Up to the Medicare payments for equivalent services.

By the following factors:

Please describe.

Payment for services delivered via telehealth:

- 3. For the duration of the emergency, the state authorizes payments for telehealth services that:
 - a. Are not otherwise paid under the Medicaid state plan;
 - b. Differ from payments for the same services when provided face to face;
 - c. Differ from current state plan provisions governing reimbursement for telehealth;

Describe telehealth payment variation.

- d. Include payment for ancillary costs associated with the delivery of

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Currently, payment is made for reserving beds for youth in residential mental health treatment centers in those instances where a resident is temporarily absent from the center. Payment is made up to 14 continuous days for such absences. New Jersey requests to exceed the 14 day limit during this period for any youth who may require leave for treatment of COVID or COVID quarantine with prior authorization.

Behavioral Health Home: New Jersey is requesting suspension of the State Plan requirement that the behavioral health home (BHH) team accompany youth to admission appointments for inpatient or other out of home setting.

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148 (Expires 03/31/2021). The time required to complete this information collection is estimated to average 1 to 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. Your response is required to receive a waiver under Section 1135 of the Social Security Act. All responses are public and will be made available on the CMS web site. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850. ***CMS Disclosure*** Please do not send applications, claims, payments, medical records or any documents containing sensitive information to the PRA Reports Clearance Office. Please note that any correspondence not pertaining to the information collection burden approved under the associated OMB control number listed on this form will not be reviewed, forwarded, or retained. If you have questions or concerns regarding where to submit your documents, please contact the Centers for Medicaid & CHIP Services at 410-786-3870.