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**State/Territory Name: Colorado**

**State Plan Amendment (SPA) #: 20-0035**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 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



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October 1, 2020

Kim Bimestefer, Executive Director  
Department of Health Care Policy & Financing  
1570 Grant Street  
Denver, CO 80203

Re: Colorado State Plan Amendment (SPA) 20-0035

Dear Ms. Bimestefer:

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) 20-0035. 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.


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 Colorado's Medicaid SPA Transmittal Number 20-0035 is approved effective September 11, 2020.

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

Please contact Curtis Volesky at 303-844-7033 or by email at [Curtis.volesky@cms.hhs.gov](mailto:Curtis.volesky@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 Colorado and the health care community.


Sincerely,

Alissa M.  
Deboy -S

 Digitally signed by Alissa  
M. Deboy -S  
Date: 2020.10.01  
13:17:11 -04'00'

Alissa Mooney DeBoy  
Acting Deputy Director  
Center for Medicaid & CHIP Services

Enclosures

<p align="center"><b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b></p> <p><b>FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b></p>		1. TRANSMITTAL NUMBER:  <b>20 - 0035</b>	2. STATE:  <b>COLORADO</b>
		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE:  <b>September 11, 2020</b>	
5. TYPE OF PLAN MATERIAL ( <i>Check One</i> ):  <p>NEW STATE PLAN                      AMENDMENT TO BE CONSIDERED AS A NEW PLAN                      <b>X AMENDMENT</b></p>			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT ( <i>Separate transmittal for each amendment</i> )			
6. FEDERAL STATUTE/REGULATION CITATION:  <b>Social Security Act, Title XIX</b>		7. FEDERAL BUDGET IMPACT:  a. FFY 2021: <b>\$1,815,000</b> b. FFY 2022: <b>(\$1,815,000)</b>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>*Section 7 – General Provisions – Item 7.4 – Medicaid Disaster Relief for the COVID-19 National Emergency –Pages 10-13 of 14</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):  <b>*Section 7 – General Provisions – Item 7.4 – Medicaid Disaster Relief for the COVID-19 National Emergency – Page 10 of 11 (TN 20-0012)</b>	
10. SUBJECT OF AMENDMENT:  <b>Establishes a COVID-19 interim payment methodology for primary care medical providers (PCMP) who provide integrated services. Qualifying PCMPs must submit an application to the Department to receive a one-time advance interim payment in October 2020. The advance interim payment will be made for medical services care that would be expected to be paid during October 1, 2020 through December 31, 2020. PCMPs receiving the October 2020 interim payment will continue to submit claims for medical services rendered between October 5, 2020 and December 31, 2020, but payment for such claims will be withheld until the January 8, 2021 MMIS financial cycle. In September 2021, the Department will reconcile the October 2020 advance interim payment to the services rendered by participating PCMPs between October 5, 2020 through December 31, 2020. The reconciliation will be calculated using dates-of-service between October 5, 2020 through December 31, 2020 and for claims paid between January 1, 2021 through August 6, 2021. In October 2021, the Department will begin the process of recouping the amount of the October 2020 advance interim payment, if any, in excess of what participating PCMPs should have received for dates-of-service between October 5, 2020 through December 31, 2020 and for claims paid between January 1, 2021 and August 6, 2021.</b>			
11. GOVERNOR'S REVIEW ( <i>Check One</i> ):  <p>GOVERNOR'S OFFICE REPORTED NO COMMENT                      <b>X OTHER, AS SPECIFIED</b></p> <p>COMMENTS OF GOVERNOR'S OFFICE ENCLOSED                      <b>Governor's letter dated 11 October, 2019</b></p> <p>NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL</p>			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO:  <b>Colorado Department of Health Care Policy and Financing 1570 Grant Street Denver, CO 80203-1818</b>	
13. TYPED NAME:  <b>Tracy Johnson</b>		Attn: <b>Lauren Reveley</b>	
14. TITLE:  <b>Medicaid Director</b>			
15. DATE SUBMITTED: September 4, 2020			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED    September 4, 2020		18. DATE APPROVED    October 1, 2020	
<b>PLAN APPROVED – ONE COPY ATTACHED</b>			

19. EFFECTIVE DATE OF APPROVED MATERIAL September 11, 2020	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME Alissa Mooney DeBoy	22. TITLE Acting Deputy Director, CMCS
23. REMARKS: State authentication and ink to correct FFYs in box 7 page numbers in box 8 to "Pages 10-13 of 14" citation in box 6 and dates in box 10	

FORM CMS-179 (07/92)

*Instructions on Back*

19. EFFECTIVE DATE OF APPROVED MATERIAL September 11, 2020	20. SIGNATURE OF REGIONAL OFFICIAL Alissa M. Deboy -S <small>Digitally signed by Alissa M. Deboy -S Date: 2020.10.01 13:17:45 -04:00</small>
21. TYPED NAME Alissa Mooney DeBoy	22. TITLE Acting Deputy Director, CMCS
23. REMARKS: State auth ren and ink change to correct FFYs in box 7 page numbers in box 8 to "Pages 10-13 of 14" and dates in box 10	

FORM CMS-179 (07/92)

*Instructions on Back*

Other:

4.  Other payment changes:

*Please describe.*

*The Department amends allowable health care costs for nursing facility cost reports to accommodate emergency workforce changes:*

Attachment 4.19-D, Nursing Facility Benefits, Page 3, Item 14, add new Subpart i. *Effective April 1, 2020 and ending June 30, 2020, salaries, taxes and benefits for unlicensed workers performing healthcare tasks during a public healthcare emergency or declared state of emergency.*

Attachment 4.19-D, Nursing Facility Benefits, Class I Health Care State-Wide Maximum Allowable Per Diem Reimbursement Rates (Limit), Page 22, add new Subpart 7. *Effective April 1, 2020 and ending June 30, 2020, salaries, taxes and benefits for unlicensed workers performing healthcare tasks during a public healthcare emergency or declared state of emergency.*

Attachment 4.19, Payment for Services, Subpart (a), Page 57 (TN# 92-1), describes the methods and standards used to determine rates for payment for inpatient hospital services. The "Inappropriate level of care days are not covered" box is checked. This amendment unchecks that box and checks the box indicating "Inappropriate level of care days are covered and are paid under the State plan at lower rates than other inpatient hospital services, reflecting the level of care actually received, in a manner consistent with section 1861(v)(1)(G) of the Act." The rate will be equal to the estimated adjusted State-wide average rate per patient-day paid for services provided in skilled nursing facilities under the State Plan.

**Colorado Medicaid COVID-19 October 2020 Interim Payment to Primary Care Medical Providers Who Provide Integrated Services (October 2020 Interim Payment)**

**Provider Qualifications**

To receive a payment under the October 2020 Interim Payment, the Health Care Provider must meet the following Criteria:

- 1) A Health Care Provider (Provider) that is any person or organization that furnishes, bills for, or is paid for medical care, services, or goods to one or more Colorado Medicaid members and has an active Provider ID that is established as a Primary Care Medical Provider (PCMP) in the Department's MMIS;
- 2) Enrolled with the Colorado Medicaid Program enrolled as a Physician, Osteopath, School Health Clinic, Family/Pediatric Nurse Practitioner, Clinic – Practitioner, Non-

Physician Practitioner, Rural Health Clinic, Indian Health Service – Federally Qualified Health Center, or Federally Qualified Health Center;

- 3) A Provider that voluntarily contracts with a Regional Accountable Entity (RAE) as a Primary Care Medical Provider (PCMP) to participate in the Department’s Accountable Care Collaborative (ACC) as a medical home;
- 4) Provide services through an integrated services approach that includes physical health and dental services OR physical health and behavioral health services, as documented through claims submitted to the Colorado Medicaid Agency;
- 5) Received a payment from Colorado Medicaid (as paid through the Department’s MMIS as a Fee-For-Service payment) that was less than \$70,000 for the quarter during the period of October – December 2019 (Claims with Dates of Service 1/1/2019 – 12/31/2019 AND Dates of Payment Between 10/1/2019 – 12/31/2019); and
- 6) Completes and submits the specified application issued by Colorado Medicaid and attests to the following on that application (only one application per PCMP enrolled Provider ID will be accepted):
  - a. The Providers serves a designated Colorado rural area and Colorado Medicaid enrollees make up at least 30% of the Provider’s overall patient visits in Calendar Year 2019 OR serves a Colorado urban area and Colorado Medicaid enrollees make up at least 40% of the Providers overall patient visits in Calendar Year 2019;
  - b. The Provider will continue to serve through October 1, 2020 through December 31, 2020 at least the same number of Medicaid patients as it did in October 1, 2019 through December 31, 2019;
  - c. If the Provider has received COVID-19 relief funding through the federal government, they must attest that the received COVID-19 relief funding does not exceed the providers expected revenue for October 1, 2020 through December 31, 2020;
  - d. The Provider will not lay off staff during October 1, 2020 through December 31, 2020; and
  - e. The Provider will maintain wages during October 1, 2020 through December 31, 2020 at the existing levels as of date of the application.

#### Payment Calculation and Reconciliation Process

- 1) The October 2020 Interim Payment will be made in advance during October 2020 for medical services care that would be expected to be paid during October 1, 2020 through December 31, 2020.



- a. The October 2020 Interim Payment will be calculated as a quarterly payment from Colorado Medicaid (as paid through the Department's MMIS as a Fee-For-Service payment) during the period of October – December 2019 (Claims with Dates of Service 1/1/2019 – 12/31/2019 AND Dates of Payment Between 10/1/2019 – 12/31/2019)
  - b. The October 2020 Interim Payment will not exceed \$70,000.
- 2) The October 2020 Interim Payment will be paid through the Department's MMIS as a Fee-For-Service, lumpsum payment at Colorado's State Plan Rate.
- a. One October 2020 Interim Payment will be made to a Provider through their Provider ID that is established as a Primary Care Medical Provider (PCMP) in the Department's MMIS. Providers are prohibited from receiving more than one October 2020 Interim Payment.
- 3) During the period October 5, 2020 through December 31, 2020 (adjusted to match the Department's MMIS financial cycle) the Provider will still submit claims but will not receive any fee-for-service payments through the Medicaid Agency (as paid through the Departments MMIS and Fiscal Agent). All claims submitted by the Provider between October 5, 2020 through December 31, 2020 will be processed but all payments will be withheld.
- 4) Payments for claims processed but not paid during October 5, 2020 through December 31, 2020 will be released on January 8, 2021 MMIS financial cycle.
- 5) The October 2020 Interim Payment will be reconciled to the Colorado Medicaid payments for services actually provided during the period October 5, 2020 through December 31, 2020.
- a. The reconciliation will be calculated in August 2021 using dates-of-service between October 5, 2020 through December 31, 2020 and for claims paid between January 1, 2021 through August 6, 2021.
  - b. The reconciliation process will calculate the difference in federal funds paid to the Provider through the October 2020 Interim Payment and the amount of federal funds that the Provider should have received for dates-of-service between October 5, 2020 through December 31, 2020 and for claims paid between January 1, 2021 through August 6, 2021.
  - c. The reconciliation process will take into consideration the federal funds paid through the October 2020 Interim Payment calculated at Colorado's State Plan Rate, excluding any enhanced federal fund match authorized through the Family First Act, and the federal match rate that should have been paid based on the patient's eligibility category.

- 6) The Department will begin in September 2021 the process to recoup any federal funds paid to Providers in excess of what they should have received for dates-of-service between October 5, 2020 through December 31, 2020 and for claims paid between January 1, 2021 through August 6, 2021.
  - a. Provider will receive notice of the Department’s reconciliation process and calculation in September 2021.
  - b. Provider will have a 30-day opportunity to appeal any the calculation and federal funds owed.
  
- 7) Providers will begin the repayment plan for any federal funds owed in October 2021. The repayment plan will have two options:
  - a. Providers may submit a check to repay the difference, either as a lump sum (due prior to December 31, 2021) or in four equal quarterly installments with the last payment due by August 31, 2022.
  - b. The Department will withhold a percentage of the Provider’s weekly payment issued through the Department’s MMIS such that the federal funds owed will recouped by August 31, 2022.
  - c. For any amount due but not recouped by August 31, 2022 the Department will take all necessary actions to return the federal funds by September 30, 2022.

**Section F – Post-Eligibility Treatment of Income**

- 1. \_\_\_ The state elects to modify the basic personal needs allowance for institutionalized individuals. The basic personal needs allowance is equal to one of the following amounts:
  - a. \_\_\_ The individual’s total income
  - b. \_\_\_ 300 percent of the SSI federal benefit rate
  - c. \_\_\_ Other reasonable amount: \_\_\_\_\_
  
- 2. \_\_\_ The state elects a new variance to the basic personal needs allowance. (Note: Election of this option is not dependent on a state electing the option described the option in F.1. above.)

The state protects amounts exceeding the basic personal needs allowance for individuals who have the following greater personal needs:

*Please describe the group or groups of individuals with greater needs and the amount(s) protected for each group or groups.*