

Table of Contents

State/Territory Name: Pennsylvania

State Plan Amendment (SPA) #: 22-0037

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 28, 2023

M. Snead
Acting Secretary
Pennsylvania Department of Human Services
P.O. Box 2675
Harrisburg, PA 17105

Re: Pennsylvania State Plan Amendment (SPA) 22-0037

Dear Acting Secretary Snead:

We have reviewed the proposed amendment and accompanying section 1135 waivers to add section 7.4 Medicaid Disaster Relief for the COVID-19 National Emergency to your Medicaid state plan, as submitted on December 12, 2022, under transmittal number (TN) 22-0037. 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 Pennsylvania 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.

These waivers 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 Pennsylvania's Medicaid SPA Transmittal Number 22-0037 is approved effective March 1, 2020. This SPA is in addition to all previous approved Disaster Relief SPAs, and does not supersede anything approved in those SPAs.

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

Please contact Dan Belnap at (215) 861-4273 or by email at Dan.Belnap@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 Pennsylvania and the health care community.

Sincerely,

Alissa M.
Deboy -S

Digitally signed by Alissa
M. Deboy -S
Date: 2023.06.28
08:31:43 -04'00'

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

Enclosures

<p>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</p> <p>FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES</p>		<p>1. TRANSMITTAL NUMBER</p> <p style="text-align: center;"><u>2</u> <u>2</u> — <u>0</u> <u>0</u> <u>3</u> <u>7</u></p>	<p>2. STATE</p> <p style="text-align: center;"><u>PA</u></p>
<p>TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES</p>		<p>3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT</p> <p style="text-align: center;"><input checked="" type="radio"/> XIX <input type="radio"/> XXI</p>	
<p>5. FEDERAL STATUTE/REGULATION CITATION</p> <p style="text-align: center;">1135, 42 U.S.C. 1320b-5 Title XIX of the SSA</p>		<p>4. PROPOSED EFFECTIVE DATE</p> <p style="text-align: center;">March 1, 2020</p>	
<p>7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT</p> <p style="text-align: center;">Section 7.4 - Medicaid Disaster Relief for COVID-19 National Emergency</p>		<p>6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)</p> <p>a. FFY <u>2023</u> \$ <u>6,649,000</u></p> <p>b. FFY <u>2024</u> \$ <u>0</u></p>	
<p>9. SUBJECT OF AMENDMENT</p> <p style="text-align: center;">Supplemental payments to NEMT providers during State Plan Rate Year 2022-2023</p>		<p>8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)</p>	
<p>10. GOVERNOR'S REVIEW (Check One)</p> <p><input type="radio"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="radio"/> OTHER, AS SPECIFIED:</p> <p><input type="radio"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED</p> <p><input type="radio"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL</p>			
<p>11. SIGNATURE OF STATE</p> <div style="background-color: black; width: 150px; height: 30px; margin-left: 100px;"></div>	<p>15. RETURN TO</p> <p>Commonwealth of Pennsylvania Department of Human Services Office of Medical Assistance Programs Bureau of Policy, Analysis and Planning P.O. Box 2675 Harrisburg, Pennsylvania 17105-2675</p>		
<p>12. TYPED NAME</p> <p>M. Snead</p>	<p>14. DATE SUBMITTED</p> <p>December 12, 2022</p>		
<p>13. TITLE</p> <p>Acting Secretary of Human Services</p>	<p>FOR CMS USE ONLY</p>		
<p>16. DATE RECEIVED</p> <p>December 12, 2022</p>	<p>17. DATE APPROVED</p> <p style="text-align: center;">06/28/2023</p>		
<p>PLAN APPROVED - ONE COPY ATTACHED</p>			
<p>18. EFFECTIVE DATE OF APPROVED MATERIAL</p> <p>March 1, 2020</p>	<p>19. SIGNATURE OF APPROVING OFFICIAL</p> <p>Alissa M. Deboy -S</p> <p style="font-size: small; text-align: right;">Digitally signed by Alissa M. Deboy -S Date: 2023.06.28 08:32:24 6496</p>		
<p>20. TYPED NAME OF APPROVING OFFICIAL</p> <p>Alissa Mooney DeBoy, on Behalf of Anne Marie Costello</p>	<p>21. TITLE OF APPROVING OFFICIAL</p> <p>Deputy Director, Center for Medicaid and CHIP Services</p>		
<p>22. REMARKS</p>			

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:

During State Plan Rate Year (SPRY) 2021 – 2022 and 2022-2023, the State will pay supplemental per trip rates of \$2.28 per trip in addition to the currently approved per trip rate for Non-emergent Medical Transportation (NEMT) county and direct contractor providers. The State will pay an add-on Per Member Per Month (PMPM) rate of \$0.70 in addition to the contracted PMPM to the NEMT Broker covering Philadelphia County only. NEMT supplemental payments made in SPRY 2022-2023 are limited to the number of completed trips or enrolled MA beneficiaries having dates of service or enrollment of July 1, 2022 through April 30, 2023.

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),

State/Territory: Pennsylvania

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 [insert name of state] Medicaid state plan, as described below:

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.

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:

Less restrictive resource methodologies:

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

State/Territory: Pennsylvania

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:

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. _____ 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 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.

2. _____ 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.

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.

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).

State/Territory: Pennsylvania

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.

Section C – Premiums and Cost Sharing

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

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

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

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

3. ____ The agency assures that newly added benefits or adjustments to benefits comply with all applicable statutory requirements, including the statewideness requirements found at

State/Territory: Pennsylvania

1902(a)(1), comparability requirements found at 1902(a)(10)(B), and free choice of provider requirements found at 1902(a)(23).

4. _____ 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. _____ 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:

Telehealth:

5. _____ The agency utilizes telehealth in the following manner, which may be different than outlined in the state's approved state plan:

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.

The state is requesting to waive any signature requirements for the dispensing of drugs during the Public Health Emergency, effective March 1, 2020.

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.

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.

State/Territory: Pennsylvania

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:

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:

b. Payments are increased through:

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): April 1, 2021

Location (list published location):

Up to the Medicare payments for equivalent services.

By the following factors:

State/Territory: Pennsylvania

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;

- d. Include payment for ancillary costs associated with the delivery of covered services via telehealth, (if applicable), as follows:
 - i. Ancillary cost associated with the originating site for telehealth is incorporated into fee-for-service rates.
 - ii. Ancillary cost associated with the originating site for telehealth is separately reimbursed as an administrative cost by the state when a Medicaid service is delivered.

Other:

4. Other payment changes:

The State will pay supplemental payments to direct contractor providers. The supplemental payment will be an add-on of \$2.28 per trip to the negotiated per trip rate for each completed direct contractor NEMT trip, paid in a one-time lump sum supplemental payment, in addition to the direct contractor negotiated per trip rate for SPRY 2021 – 2022 and SPRY 2022-2023. The supplemental payment for SPRY 2022-2023 will be limited to completed trips with dates of service from July 1, 2022, to April 30, 2023.

For local county governments, the State will make a one-time lump sum supplemental payment calculated as an add-on of \$2.28 per trip to the trip rate negotiated between the county and subcontractor based on the number of completed NEMT trips by the subcontracted provider in SPRY 2021-2022 and SPRY 2022-2023. The supplemental payment for SPRY 2022-2023 will be limited to completed trips with dates of service from July 1, 2022, to April 30, 2023.

The State will pay an add-on of \$0.70 PMPM to the contracted PMPM rate to the NEMT Broker covering Philadelphia County only. The State will pay the add-on PMPM for each MA beneficiary enrolled during SPRY 2021-2022 and SPRY 2022-2023, paid in a one-time lump sum supplemental payment. The add-on of \$0.70 PMPM for SPRY 2022-2023 will be limited to MA beneficiaries enrolled for July 2022 through April 2023.

TN: 22-0037

Supersedes TN: New

Approval Date: 06/28/2023

Effective Date: March 1, 2020

State/Territory: Pennsylvania

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:

Section G – Other Policies and Procedures Differing from Approved Medicaid State Plan /Additional Information

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.