



All-State Medicaid & CHIP Call

June 16, 2020



Agenda

- Welcome and Introduction – Calder Lynch
- Key Dates for Termination of COVID-19 Flexibilities
- Retaining Medicaid State Plan Flexibilities Adopted During the Public Health Emergency *After the Emergency Ends*
- Discussion / Questions and Answers on Medicaid SPA Flexibilities
- General Q&A
- Wrap-up

Introduction



Calder Lynch
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COVID-19 Public Health Emergency

- The Secretary of HHS may, under section 319 of the Public Health Service (PHS) Act, determine that: a) a disease or disorder presents a public health emergency (PHE); or b) that a public health emergency, including significant outbreaks of infectious disease or bioterrorist attacks, otherwise exists.
- PHE declarations last for the duration of the emergency or up to 90 days, at which time they must be renewed by the Secretary.
- The Secretary first declared a PHE related to COVID-19 effective January 27, 2020. On April 21, 2020 it was renewed with an effective date of April 26, 2020.
- Therefore, the current PHE would have to be renewed again before July 24, 2020, after which it would expire.
- Subsequent references and discussion are for this federal PHE unless specified.

Key Dates for Termination of COVID-19 Flexibilities

Authority / Provision	Effective Date	Termination Date
Medicaid Disaster SPA	March 1, 2020 or any later date elected by state	Expires at the end of PHE or any earlier approved date elected by state
CHIP Disaster SPA	Start of state or federally declared emergency	Expires at the end of PHE or at state discretion before end of PHE
Appendix K	Jan 27, 2020 or any later date elected by state	Expires one year from the effective date or any earlier approved date elected by the state. However, end dates cannot extend beyond one year from the last day of the month in which the President signed the proclamation of a national emergency (March 31, 2021).
Medicaid & CHIP 1135 Waiver	March 1, 2020	Expires at the end of PHE
1115 COVID Demo	March 1, 2020 or any later date elected by state	Expires no later than 60 days after end of PHE
Emergency IT Funding	Date of state's emergency IT funding request letter	There is no termination date for this authority, and it is not tied to PHE. Existing regulation further requires that the state submit an APD within 90 days of state's emergency IT request letter. The formal approval of scope, timeline and funding is accomplished through the APD process.
FMAP – 6.2% Enhancement	January 1, 2020	Expires the last day of the calendar quarter in which the PHE ends. (States must adhere to the 6008(b) of FFCRA).
Continuous Coverage Tied to 6.2% Enhanced FMAP	March 18, 2020	Expires the last day of the month in which the PHE ends
Optional COVID Testing Group	March 18, 2020	Expires at the end of PHE. No FMAP is available for testing or testing-related services provided for those in COVID-19 testing group after the PHE ends.

Medicaid State Plan Flexibilities

Retaining Medicaid State Plan Flexibilities Adopted During the Public Health Emergency After the Emergency Ends

When is Public Notice Required for Medicaid State Plan Amendments?

Public notice is not required for all SPA submissions but is required for certain types of Medicaid SPAs:

Premium and Cost Sharing SPAs

- 42 CFR 447.57 – Public notice is required prior to submitting a SPA to establish or substantially modify cost sharing/premiums or the consequences for non-payment

Alternative Benefit Plan SPAs

- 42 CFR 440.386 – Public notice is required prior to submitting a SPA to establish an ABP or substantially modify an existing ABP. The public must have a reasonable opportunity to comment on the amendment.

All SPAs Containing Payment Provisions

- 42 CFR 447.205 – Public notice must occur prior to effective date of new SPA when proposing significant change in methods and standard for setting payment rates for services.

States should review the relevant regulations for a full description of the public notice requirements.

Tribal Consultation & Other Reminders

Tribal Consultation Requirements

- States in which one or more Indian health programs or urban Indian organizations that furnish health care services must conduct tribal consultation prior to the submission of any state plan amendments likely to have a direct effect on Indians, Indian health programs, or urban Indian organizations in accordance with the state's tribal consultation policy, as described in its approved state plan, per section 1902(a)(73) and 2107(e)(1)(F) of the Act.

CMS- 179 Form: Transmittal of State Plan Material

- A CMS-179 must be included in each SPA submission.

Effective Date of Medicaid State Plan Amendments

In accordance with 42 CFR 430.20, States generally must submit Medicaid SPAs by the end of the fiscal quarter in which the SPA will be effective.

- For example, if the proposed effective date for a SPA is August 1, 2020, the SPA must be submitted to CMS no later than September 30, 2020.

To continue or make permanent a provision elected or adjusted through an approved disaster relief SPA without a lapse in authority:

- The state will need to submit the appropriate SPA amending its state plan no later than the end of the quarter in which the PHE is terminated for an effective date as of the termination of the PHE
- As described on previous slides, states may need to conduct public notice and / or tribal consultation BEFORE they submit SPA. This needs to be factored into a state's timeline.

Retaining Medicaid State Plan Flexibilities Adopted During the Public Health Emergency – Eligibility

Category	Provision	Medicaid SPA Page / Template to be Submitted	SPA Submission Pathway - MACPro, MMDL, paper / SPA mailbox	Public Notice Requirements - Yes / No / Requirement
Eligibility	Adopting Optional Groups*	Reviewable Unit (RU) for the Impacted Eligibility Group	MACPro	No
	Income and/or resource disregards	Non-MAGI Eligibility Group RU for each affected eligibility group	MACPro	No
	Residency	Residency RU	MACPro	No
	Reasonable opportunity period	Citizenship and Non-Citizen Eligibility RU	MACPro	No
	Post Eligibility Treatment of Income	Attachment 2.6-A, Section B	SPA mailbox	No

* The COVID-19 testing group expires at the end of the public health emergency, including any renewals. States cannot retain this eligibility group beyond the public health emergency.

Retaining Medicaid State Plan Flexibilities Adopted During the PHE – Enrollment

Category	Provision	Medicaid SPA Page / Template to be Submitted	SPA Submission Pathway - MACPro, MMDL, paper / SPA mailbox	Public Notice Requirements - Yes / No / Requirement
Enrollment	Hospital Presumptive Eligibility	Hospital Presumptive Eligibility RU	MACPro	No
	Presumptive eligibility	Presumptive Eligibility RU for each affected eligibility group	MACPro	No
	Continuous eligibility	Attachment 2.2-A, Section B.21	SPA mailbox	No
	Non-MAGI renewal periodicity	Eligibility Process RU	MACPro	No
	Application	Application RU	MACPro	No

Retaining Medicaid State Plan Flexibilities Adopted During the PHE – Cost Sharing / Premiums

Category	Provision	Medicaid SPA Page / Template to be Submitted	SPA Submission Pathway - MACPro, MMDL, paper / SPA mailbox	Public Notice Requirements - Yes / No / Requirement
Cost Sharing / Premiums	Cost Sharing	G2a - cost sharing for categorically needy individuals, G2b - cost sharing for medically needy individuals and G2c - cost sharing for targeting	MMDL	Yes - 42 CFR 447.57 – public notice required prior to submitting a SPA to establish or substantially modify cost sharing or the consequences for non-payment
	Premiums	Varies depending on the eligibility group subject to premiums in the appropriate section of Attachment 2.6-A or Attachment 4.18	SPA mailbox	Yes - 42 CFR 447.57 – public notice required prior to submitting a SPA to establish or substantially modify premiums or the consequences for non-payment

Retaining Medicaid State Plan Flexibilities Adopted During the PHE – Benefits

Category	Provision	Medicaid SPA Page / Template to be Submitted	SPA Submission Pathway - MACPro, MMDL, paper / SPA mailbox	Public Notice Requirements - Yes / No / Requirement
Benefits	Adding optional benefits	Varies depending on benefit in the appropriate 3.1A/B page	SPA mailbox	No**
	Adjustments to existing benefits	Varies depending on benefit in the appropriate 3.1A/B page	SPA mailbox	No**
	Alternative Benefit Plan Changes	ABP Form 5 for benefit changes. All ABP forms will need to be submitted in MMDL to complete the package	MMDL	Yes - 42 CFR 440.386 - Public notice must occur prior to the submission of an ABP SPA that establishes an ABP plan or an amendment to substantially modify an existing ABP plan
	Telehealth	No requirement for submission but may need the appropriate 3.1 A/B page depending on existing language	SPA mailbox	No**

Retaining Medicaid State Plan Flexibilities Adopted During the PHE – Pharmacy

Category	Provision	Medicaid SPA Page / Template to be Submitted	SPA Submission Pathway - MACPro, MMDL, paper / SPA mailbox	Public Notice Requirements - Yes / No / Requirement
Pharmacy	Day supply or quantity limit for covered outpatient drugs	Attachment 3.1-A/B, if existing language regarding day supply or quantity limits exists on coverage pages.	SPA mailbox	No
	Monthly prescription limits	Attachment 3.1-A/B, if existing language regarding monthly prescription limits exists on coverage pages.	SPA mailbox	No
	Prior authorization	Attachment 3.1-A/B, if existing language regarding prior authorization exists on coverage pages.	SPA mailbox	No

Retaining Medicaid State Plan Flexibilities Adopted During the PHE – Pharmacy - continued

Category	Provision	Medicaid SPA Page / Template to be Submitted	SPA Submission Pathway - MACPro, MMDL, paper / SPA mailbox	Public Notice Requirements - Yes / No / Requirement
Pharmacy	Adjustment to Professional Dispensing Fee – supporting documentation required	Attachment 4.19-B	SPA mailbox	Yes - 42 CFR 447.205 - Public notice must occur prior to effective date of new SPA
	Exceptions to Preferred Drug List	Attachment 3.1-A/B, if existing language regarding PDL exists on coverage pages.	SPA mailbox	No
	Coverage of investigational drugs	Attachment 4.1-B. Update also required on Attachment 3.1-A/B, if there is existing language regarding coverage of investigational drugs.	SPA mailbox	Yes - 42 CFR 447.205 – Public notice must occur prior to effective date of new SPA

Retaining Medicaid State Plan Flexibilities Adopted During the PHE – Payment

Category	Provision	Medicaid SPA Page / Template to be Submitted	SPA Submission Pathway - MACPro, MMDL, paper / SPA mailbox	Public Notice Requirements - Yes / No / Requirement
Payment	Optional Benefits Added	Attachment 4.19-A, -B, -D, or -C (for bed hold days) with corresponding coverage pages	SPA mailbox - MACPro for health home SPAs	Yes - 42 CFR 447.205 – Public notice must occur prior to effective date of new SPA
	Increase in State Plan methodologies	Attachment 4.19-A, -B, -D, or -C (for bed hold days)	SPA mailbox - MACPro for health home SPAs	Yes - 42 CFR 447.205 – Public notice must occur prior to effective date of new SPA
	Telehealth – SPA may be needed based on how the state wants to pay for telehealth services & existing state plan language	Attachment 4.19-A, -B, or -D	SPA mailbox - MACPro for health home SPAs	Yes - 42 CFR 447.205 – Public notice must occur prior to effective date of new SPA
	Other payment changes	Attachment 4.19-A, -B, -D, or -C (for bed hold days)	SPA mailbox - MACPro for health home SPAs	Yes - 42 CFR 447.205 – Public notice must occur prior to effective date of new SPA

Discussion

Questions & Answers