

CMS Makes Toolbox Available to Streamline Relief for State Medicaid and CHIP Programs During COVID-19 Outbreak



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Centers for Medicare & Medicaid Services (CMS) announced new tools and resources on March 22, 2020, to support state Medicaid and Children's Health Insurance Programs (CHIP) during the COVID-19 outbreak. These tools relate to (1) Section 1115 waivers; (2) Section 1135 waivers; (3) Section 1915(c) program changes; and (4) Medicaid state plan amendments. The goal is to streamline the process for states to obtain approval for commonly requested changes, but the tools also give providers and Medicaid managed care plans an idea of what changes to expect, what changes are possible, and what changes to discuss with state officials.

1. 1115 Waiver Opportunity and Application Checklist – CMS released a new State Medicaid Director Letter (SMDL) #20-002, including a Demonstration Application Template to help states obtain authority to operate their Medicaid programs without regard to certain statutory or regulatory provisions. The demonstration authority is retroactive to March 1, 2020. Example waivers include:

- Permission to target services on a geographic basis that is less than statewide (waiver of Section 1902(a)(1)).
- Permission to vary the amount, duration, and scope of services based on population needs; to provide different services to different beneficiaries in the same eligibility group; or different services to beneficiaries in the categorically needy and medically needy groups; and to allow states to triage access to long-term services and supports based on highest need (Section 1902(a)(8), (a)(10)(B), and/or (a)(17)).

Example expenditure authorities include:

- Allow for self-attestation or alternative verification of individuals' eligibility (income/assets) and level of care to quality for long-term care services and supports.
- Long-term care services and supports for impacted individuals, even if services are not timely updated in the plan of care, or are delivered in alternative settings.
- Allow states to modify eligibility criteria for long-term services and supports.

2. 1135 Waiver Checklist – CMS has "pre-packaged" 1135 authorities into a checklist template in order to help states more easily apply for waivers made available under the President's national emergency declaration. Example waivers include:

- Suspension of Medicaid fee-for-service prior authorization requirements.

- Extension of minimum data set authorizations for nursing facility and skilled nursing facility residents.
- Waiver of application fee payments, criminal background checks, and/or site visits to temporarily enroll a provider.
- Permission for providers located out-of-state/territory to provide care to an emergency State's Medicaid enrollee and be reimbursed for that service.
- Waiver of requirements that physicians and other healthcare professionals be licensed in the state in which they are providing services, so long as they have equivalent licensing in another state.
- Waiver of conditions of participation or conditions for coverage for existing providers for facilities for providing services in alternative settings, including using an unlicensed facility, if the provider's licensed facility has been evacuated.

3. 1915(c) Appendix K Template – The purpose of Appendix K is to help states accelerate changes to home and community-based services. The Appendix K template is pre-populated with commonly requested program changes. Examples include:

- Temporarily expand settings where service may be provided (for example, hotels, schools, and churches).
- Temporarily modify licensure or other requirements for settings where waiver services are furnished.
- Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements).

4. Medicaid Disaster State Plan Amendment Template – The purpose of this template is to help states make temporary changes to their Medicaid plans. It allows states to submit one combined request for temporary changes that CMS anticipates states will want to make. Examples of changes include:

- Provision of Medicaid coverage to certain individuals living in the state, but who are not residents.
- Permission for hospitals to make presumptive eligibility determinations for certain additional state plan populations, or for populations in an approved section 1115 demonstration.
- Suspension of deductibles, copayments, coinsurance, and other cost-sharing charges.
- Adjustment of covered benefits.
- Utilization of telehealth, including authorization of payments for telehealth services that are not otherwise paid under the Medicaid state plan.
- Adjustments to the day supply or quantity limit for covered outpatient drugs.
- Expansion of prior authorization for medications by automatic renewal without clinical review, or time/quantity extensions.

CMS recently approved its first section 1135 public health emergency waivers for the state of Florida on March 16, 2020, and the first 1915(c) Home and Community-Based Services waiver Appendix K approval on March 18, 2020, for the state of Pennsylvania. In this latest announcement, CMS encourages other states to apply for waivers, explaining that waivers will be approved on a case-by-case basis.

CMS also issued a press release on March 22, 2020, announcing “unprecedented relief” for hospitals, clinicians, providers, and facilities participating in Medicare quality reporting programs. CMS implemented additional policy exceptions and extensions for various CMS programs because of “extreme and uncontrollable circumstances,” emphasizing that the purpose of this relief was to enable participants to focus their resources on caring for patients.