



State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

June 30, 2020

Mr. James G. Scott, Director
Division of Program Operations
Medicaid and CHIP Operations Group
Centers for Medicare & Medicaid Services
601 East 12th Street, Suite 0300
Kansas City, MO 64106-2898

REQUEST FOR ADDITIONAL STATE PLAN AMENDMENTS RELATED TO NOVEL
CORONAVIRUS DISEASE NATIONAL EMERGENCY/PUBLIC HEALTH EMERGENCY

Dear Mr. Scott:

The Department of Health Care Services (DHCS) writes to request approval for the below-detailed additional flexibility under Section 1135 of the Social Security Act (42 U.S.C. § 1320b-5) as related to the Novel Coronavirus Disease (COVID-19). The COVID-19 outbreak was declared a national emergency on March 13, 2020, and was previously declared a nationwide public health emergency (PHE) on January 31, 2020, (retroactive to January 27, 2020).

DHCS is submitting State Plan Amendment (SPA) 20-0025 for your review and approval. The amendment provides additional flexibility in connection with the COVID-19 outbreak and emergency based on further exploration of need. Because circumstances surrounding the COVID-19 emergency remain quite fluid, DHCS may subsequently request approval for additional flexibilities, which we can commit to doing promptly as soon as the need is discovered. DHCS seeks to align this SPA with the duration of the emergency period, starting with the effective date of March 1, 2020.

- Apply exemptions specific to Sections 42 CFR 440.30(a) and 42 CFR 440.30(b) for Medicaid-covered laboratory and x-ray services that must be ordered and provided by or under the direction of a physician or other licensed practitioner and to allow COVID-19 laboratory and diagnostic tests in certain non-office settings.
- Modify its rehabilitative services benefit in the Medi-Cal State Plan to include the approved rehabilitative component services for crisis stabilization services, crisis residential treatment services, adult residential treatment services, day treatment intensive services, day rehabilitative services, and psychiatric health facility

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services in Supplement 2 to Attachment 3.1-B and Supplement 3 to Attachment 3.1-A and Drug Medi-Cal residential services covered by the Medi-Cal State Plan and as authorized in Supplement 2 to Attachment 3.1-B, and Supplement 3 to Attachment 3.1-A to not require provision of services in specific locations during the PHE. Medicaid services may not be provided to individuals residing in an institution for mental diseases (IMD).

DHCS requests a waiver of public notice requirements that would otherwise be applicable to this SPA submission. To the extent there is an impact to Tribal Health Programs requiring a notice, the state requests a ten business-day notice period that will occur after the SPA is submitted to CMS for approval.

DHCS submits the enclosed CMS 179 form, fiscal impact explanation, and the Medicaid Disaster Relief State Plan Template (redline and clean versions). DHCS will post this SPA package to its website as soon as possible.

During such difficult times for California and the nation, DHCS greatly appreciates the prompt attention exhibited by CMS to these matters and we look forward to the continued partnership. If you have any questions or need additional information, please contact René Mollow, MSN, RN, Deputy Director of Health Care Benefits & Eligibility, by email at Rene.Mollow@dhcs.ca.gov, or Kelly Pfeifer, MD, Deputy Director of Behavioral Health, by email at Kelly.Pfeifer@dhcs.ca.gov.

Sincerely,



Jacey Cooper
Chief Deputy Director
Health Care Programs
State Medicaid Director

Enclosures

cc: See Next Page

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

1. TRANSMITTAL NUMBER <u>20</u> — <u>00</u> <u>25</u>	2. STATE California
3. PROGRAM IDENTIFICATION: Title XIX of the Social Security Act (Medicaid)	
4. PROPOSED EFFECTIVE DATE March 1, 2020	

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

5. TYPE OF PLAN MATERIAL (*Check One*)

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)


6. FEDERAL STATUTE/REGULATION CITATION 42 CFR 440.30(a) and (b)	7. FEDERAL BUDGET IMPACT a. FFY 2020 \$ 1,463,286 (monthly) b. FFY n/a \$ n/a
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 7.4 pages 90n-w	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>) None

10. SUBJECT OF AMENDMENT

Medicaid Disaster Relief for the Novel Coronavirus Disease (COVID-19) National Emergency - Request for Additional Flexibilities to Waive or Modify Certain Requirements of California's State Plan

11. GOVERNOR'S REVIEW (*Check One*)

- GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL 	16. RETURN TO Department of Health Care Services Attn: Director's Office P.O. Box 997413, MS 0000 Sacramento, CA 95899-7413
13. TYPED NAME Jacey Cooper	
14. TITLE State Medicaid Director	
15. DATE SUBMITTED June 30, 2020	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED	18. DATE APPROVED
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME	22. TITLE

23. REMARKS

For Box 11 "Other, As Specified," Please note: The Governor's Office does not wish to review the State Plan Amendment.

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:

Describe shorter period here.

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), 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).

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Approval Date: _____

Effective Date: 3/1/2020

This SPA is in addition to the California Disaster Relief SPA approved on 5/13/20 and does not supersede anything approved in that SPA.

- c. _____ Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in [insert name of state] Medicaid state plan, as described below:

Please describe the modifications to the timeline.
To the extent there is a direct impact to Tribal Health Programs requiring a notice, California requests a 10 business-day notice period that will occur after the SPA is submitted to CMS for approval.

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.

Include name of the optional eligibility group and applicable income and resource standard.

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:

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This SPA is in addition to the California Disaster Relief SPA approved on 5/13/20 and does not supersede anything approved in that SPA.

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 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.

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

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.

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This SPA is in addition to the California Disaster Relief SPA approved on 5/13/20 and does not supersede anything approved in that SPA.

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

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.

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.

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).

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This SPA is in addition to the California Disaster Relief SPA approved on 5/13/20 and does not supersede anything approved in that SPA.

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:

The state modifies its rehabilitative services benefit in the Medi-Cal State Plan to include the approved rehabilitative component services for crisis stabilization services, crisis residential treatment services, adult residential treatment services, day treatment intensive services, day rehabilitative services, and psychiatric health facility services in Supplement 2 to Attachment 3.1-B and Supplement 3 to Attachment 3.1-A and Drug Medi-Cal residential services covered by the Medi-Cal State Plan and as authorized in Supplement 2 to Attachment 3.1-B, and Supplement 3 to Attachment 3.1-A to not require provision of services in specific locations during the PHE. Medicaid services may not be provided to individuals residing in an institution for mental diseases (IMD).

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Apply exemptions to Attachment 3.1-A and Attachment 3.1-B, page 4, specific to Section 42 CFR 440.30(a) that requires that Medicaid-covered laboratory and X-ray services be ordered and provided by or under the direction of a physician or other licensed practitioner of the healing arts within the scope of his or her practice as defined by state law. Also, seeking an exemption to Section 42 CFR 440.30(b) that specifies Medicaid will cover laboratory and X-ray services only if provided in an office or similar facility other than a hospital outpatient department or clinic. This exemption will allow Medi-Cal to cover administering and processing COVID-19 laboratory and diagnostic tests in certain non-office settings, such as mobile testing sites, parking lots or other temporary outdoor locations, where the setting is intended to maximize physical distancing and thereby minimize transmission of COVID-19.

3. The agency assures that newly added benefits or adjustments to benefits comply with all applicable statutory requirements, including the statewide 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. 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:

Please describe.

Telehealth:

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

Please describe.

Drug Benefit:

6. 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.

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

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.

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:

Please list all that apply.

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

Please describe criteria.

- b. Payments are increased through:

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

Please describe.

- 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;

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- 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 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:

Please describe.

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.

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State/Territory: California

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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.

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