



MICHELLE BAASS
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

October 26, 2021

James G. Scott, Director
Division of Program Operations
Medicaid & CHIP Operations Group
U.S. Department of Health & Human Services
Centers for Medicare & Medicaid Services
601 E. 12th Street, Room 355
Kansas City, MO 64106

STATE PLAN AMENDMENT 21-0055: DISASTER RELIEF FOR ONE-TIME COVID-19
INCENTIVE PAYMENTS FOR IN-HOME SUPPORTIVE SERVICES PROVIDERS

Dear Mr. Scott:

The Department of Health Care Services (DHCS) is submitting State Plan Amendment (SPA) 21-0055 for your review and approval. SPA 21-0055 seeks to implement the policies and procedures as described, which are different than the policies and procedures otherwise applied under the Medicaid state plan, during the period of the public health emergency (PHE) related to the COVID-19 outbreak. The effective date of SPA 21-0055 is two months after the Centers for Medicare and Medicaid Services (CMS) approves California's Spending Plan Projection and narrative for home and community-based services (HCBS), in accordance with CMS guidance related to Section 9817 of the American Rescue Plan Act of 2021. This proposal was included in California's Initial HCBS Spending Plan Projection and Narrative, submitted on July 12, 2021, and updated on September 17, 2021. California received CMS' partial approval as of September 3, 2021, with the following language: "We are pleased to inform you that California's initial state spending plan and spending narrative submitted on July 12, 2021, meet the requirements set forth in the May 13, 2021, CMS State Medicaid Director Letter (SMDL) #21-003 and are receiving partial approval."

Using the SPA template provided by CMS for disaster relief during the COVID-19 PHE, DHCS seeks to provide a one-time incentive payment of \$500 to each current IHSS provider that provided IHSS to program recipient(s) during a minimum of two months between March 2020 and March 2021 of the pandemic pursuant to the American Rescue Plan Act of 2021, Section 9817.

Mr. James G. Scott
Page 2
October 26, 2021

DHCS seeks a waiver of the public notification requirements. To the extent there is a direct impact to Tribal Health Programs requiring a notice, DHCS requests a ten business-day notice period that will occur after the SPA is submitted to CMS for approval. DHCS will post this SPA to its website as soon as possible.

DHCS is submitting CMS Form 179 and the disaster relief SPA template. The budget impact estimate of \$275 million is based on the following assumptions:

- Payment of \$500 per provider.
- Assumes 550,000 providers will receive the payment.

If you have any questions or need additional information, please contact Susan Philip, Deputy Director, Health Care Delivery Systems, at (916) 324-5870, or by email at Susan.Philip@dhcs.ca.gov.

Sincerely,



Jacey Cooper
State Medicaid Director
Chief Deputy Director
Health Care Programs

Enclosures

cc: Michelle Baass
Director
Department of Health Care Services
Michelle.Baass@dhcs.ca.gov

Erika Sperbeck
Chief Deputy Director
Policy and Program Support
Department of Health Care Services
Erika.Sperbeck@dhcs.ca.gov

Susan Philip
Deputy Director
Health Care Delivery Systems
Department of Health Care Services
Susan.Philip@dhcs.ca.gov

Richard Nelson, Chief
Integrated Systems of Care Division
Department of Health Care Services
Richard.Nelson@dhcs.ca.gov

Saralyn M. Ang-Olson, JD, MPP
Chief Compliance Officer
Office of Compliance
Department of Health Care Services
Saralyn.Ang-Olson@dhcs.ca.gov

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

1. TRANSMITTAL NUMBER

2 1 — 0 0 55

2. STATE

California

3. PROGRAM IDENTIFICATION:

TITLE XIX OF THE SSA (MEDICAID)

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

4. PROPOSED EFFECTIVE DATE

To be determined

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

American Rescue Plan Act of 2021 - Section 9817

7. FEDERAL BUDGET IMPACT

a. FFY 2021 \$ 270,000 (in thousands)
b. FFY 2022 \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Section 7.4 pages 90rrrrr-90aaaaa

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (*If Applicable*)

None

10. SUBJECT OF AMENDMENT

Disaster Relief SPA proposes to provide a one-time incentive payment of \$500 to each current IHSS provider that provided IHSS to program recipient(s) during a minimum of two months between March 2020 and March 2021 of the pandemic. The payment would be issued through the IHSS automated system and would focus on payment for retention, recognition, and workforce development.

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

[Redacted Signature]

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
October 26, 2021

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.

Given this payment is a one-time payment to IHSS providers, California will be able to make the payment within a month. The payment will commence two months after CMS approves California's spending plan projection and narrative for home and community-based services in accordance with CMS guidance related to American Rescue Plan Act Section 9817 issued on May 13, 2021.

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.

TN: 21-0055
Supersedes TN: NEW

Approval Date:
Effective Date: TBD

This SPA is in addition to the California Disaster Relief SPAs approved on 5/13/20, 8/20/20, 3/16/21, 3/26/21, 6/4/21, and 7/28/21, and it does not supersede anything approved in those SPAs.

- 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).
- c. Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in California’s Medicaid state plan, as described below:

Please describe the modifications to the timeline.
On September 30, 2021, CMS confirmed that no tribal notice was required for this SPA because there is no direct adverse impact to eligibility, benefits or provider reimbursement.

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: _____

TN: 21-0055
Supersedes TN: NEW

Approval Date: _____
Effective Date: TBD

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 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.

TN: 21-0055
Supersedes TN: NEW

Approval Date: _____
Effective Date: TBD

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.

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.

TN: 21-0055
Supersedes TN: NEW

Approval Date: _____
Effective Date: TBD

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).

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:

TN: 21-0055
Supersedes TN: NEW

Approval Date: _____
Effective Date: TBD

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

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

TN: 21-0055
Supersedes TN: NEW

Approval Date: _____
Effective Date: TBD

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.

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

TN: 21-0055
Supersedes TN: NEW

Approval Date: _____
Effective Date: TBD

This SPA is in addition to the California Disaster Relief SPAs approved on 5/13/20, 8/20/20, 3/16/21, 3/26/21, 6/4/21, and 7/28/21, and it does not supersede anything approved in those SPAs.

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;
- c. ___ Differ from current state plan provisions governing reimbursement for telehealth;

TN: 21-0055
Supersedes TN: NEW

Approval Date: _____
Effective Date: TBD

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.

In accordance with the American Rescue Plan Act of 2021, Section 9817, allow a one-time incentive payment of \$500 to each current IHSS provider that provided IHSS to program recipient(s) during a minimum of two months between March 2020 and March 2021 of the pandemic.

The payment would be issued through the IHSS Case Management and Information System and focus on payment for retention, recognition and workforce development.

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.)

TN: 21-0055
Supersedes TN: NEW

Approval Date: _____
Effective Date: TBD

This SPA is in addition to the California Disaster Relief SPAs approved on 5/13/20, 8/20/20, 3/16/21, 3/26/21, 6/4/21, and 7/28/21, and it does not supersede anything approved in those SPAs.

State/Territory: California

Page: 90aaaaaa

Disaster Relief SPA #10

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.

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.

TN: 21-0055
Supersedes TN: NEW

Approval Date: _____
Effective Date: TBD

This SPA is in addition to the California Disaster Relief SPAs approved on 5/13/20, 8/20/20, 3/16/21, 3/26/21, 6/4/21, and 7/28/21, and it does not supersede anything approved in those SPAs.