

## Program Design Changes During the COVID-19 Response

One of the many challenges associated with the coronavirus (COVID-19) is that direct care may not be able to be provided as it normally is. If you are considering program design changes in response to the COVID-19 outbreak, the Medicaid and CHIP Coverage Learning Collaborative [Disaster Preparedness Toolkit](#) for State Medicaid Agencies may be a helpful resource. The toolkit describes a wide array of flexibilities available to state Medicaid agencies during emergencies, including but not limited to:

- Modifying eligibility requirements for enrollment in 1915(c) waivers to service additional individuals under the waiver for the duration of the emergency.
- Adding services to a 1915(c) waiver that are not expressly authorized in statute (so long as the state can demonstrate the service is necessary to assist a waiver participant to avoid institutionalization and function in the community).
- Waiving service prior authorization requirements in fee-for-service or managed care.
- Temporarily modifying requirements for co-payments to support access to services for Medicaid or CHIP enrollees.
- Temporarily waiving provider screening requirements to ensure a sufficient number of providers are available to serve Medicaid enrollees. Such requirements include the payment of application fees, criminal background checks, or site visits.

For Medicaid-funded self-direction, most program adjustments will be made via one or more of the following methods described in the Disaster Preparedness Toolkit. To determine what method is most appropriate for your program, Appendix A on page 8 of the Toolkit compares various flexibilities and under what legal authorities they can be invoked for Medicaid-funded programs.

### Program Flexibilities

We encourage our State Program, Financial Management Services (FMS), and Stakeholder Members to consider the program flexibilities you require to ensure your clients receive needed services and to submit those as soon as possible to your State Medicaid contacts. You know your programs and clients best, but some ideas include:

- Waiving restrictions on certain family members providing direct care.
- Temporarily waiving certain background check requirements so workers can be approved to provide care more quickly.
- Waiving certain prior authorization requirements.
- Waiving certain individual budget amendment requirements.
- Waiving requirements for face-to-face meetings to be replaced by phone or videoconference meetings.

Our members shared a variety of [measures and strategies](#) they are already implementing in response to this emergency.

## Appendix K in 1915(c) Waivers

The Centers for Medicare and Medicaid Services (CMS) encourages the expansion or adoption of self-direction in its [Appendix K: Emergency Preparedness and Response Instructions](#) for 1915(c) waivers.

CMS says, “There are many instances where the expansion of self-direction may be a useful option in an emergency situation. States may wish to expand the services available for self-direction, or to expand the decision making authority (for employer or budget authority) that has been imparted to individuals in the waiver. Additionally, the state may seek to temporarily add participant-directed goods and services as a service available under the waiver to enable the individuals to obtain goods and services ... arising from the emergency situation.”

Filing [Appendix K, Emergency Preparedness and Response](#), to modify a 1915(c) waiver. Note that Appendix K may be completed retroactively as needed by states.

- Appendix K specifically permits states to request expansion of self-direction during emergency situations, including increasing enrollment, adding budget authority, and/or adding individual-directed goods and services to an existing program. See page 12 for more details.
- Appendix K permits states to modify the person-centered service plan development process and/or individual(s) responsible for service plan development. See page 10 for more details.
- Appendix K permits states to request allowing up to 30 days of retainer payments for workers providing Medicaid-funded personal care to participants who become hospitalized or absent for their home. See page 12 for more details.
- Appendix K also allows states to request paying workers who are supporting participants who are staying in an acute care hospital or institutional setting during the emergency and require personal, behavioral, or communication-related support. See page 11 for more details.

## Section 1135 Waiver Requests

Per the CMS [COVID-19 Emergency Declaration Health Care Providers Fact Sheet](#), we encourage states to seek program flexibilities by submitting Section 1135 Waiver Requests.

Filing an [1135 waiver](#), which enables the Secretary of Health and Human Services to waive certain federal requirements during national emergencies. 1135 waivers enable providers to furnish needed items and services in good faith during times of disaster and be reimbursed and exempted from sanctions (absent any determination of fraud or abuse). 1135 waivers typically end no later than the termination of the emergency period or 60 days from the date the waiver or modification is first published.

Section 1135 Waiver Requests can be submitted directly to Jackie Glaze, CMS Acting Director, Medicaid & CHIP Operations Group Center for Medicaid & CHIP Services by email at [Jackie.Glaze@cms.hhs.gov](mailto:Jackie.Glaze@cms.hhs.gov) or letter. Neither a special form nor format are required for this request, although CMS-recommended best practices for developing Section 1135 Waiver Requests may be found [here](#). You can review the approved 1135 Waivers on the [CMS website](#).

## **1115 Demonstrations**

Creating 1115 demonstrations for experimental or pilot programs, including emergencies. When a state has a federally declared disaster, the budget neutrality requirement for 1115 demonstrations is automatically deemed to have been met. States are often exempt from the normal public notice process during emergencies, and disaster-related 1115 demonstrations can be filed retroactive to the effective date of the federally declared emergency.

## **Medicaid State Plan Amendment**

Filing a Medicaid State Plan Amendment (SPA) to modify existing Medicaid State Plan services. SPAs filed by states can be retroactive to the first day of the quarter in which an approvable amendment was submitted to their CMS regional office.