

Medicaid & CHIP COVID-19 Disaster Relief Flexibilities

Updated May 14, 2020

In the event of a disaster, state Medicaid agencies may request that the Centers for Medicare & Medicaid Services (CMS) waive of certain federal laws, approve modifications to Medicaid and Children’s Health Insurance Program (CHIP) state plans, and concur with modifications to eligibility verification processes. For Medicaid managed care programs, states may generally make changes that align with CMS-approved measures by amending contracts between the state and the Medicaid Managed Care Organizations (MCOs). Below please find a high-level overview of these federal disaster-related flexibilities, as well as links to recent actions under each authority by the Illinois Department of Healthcare and Family Services (HFS) to address the COVID-19 public health emergency.

COVID-19 Medicaid Section 1135 Waiver	
Overview:	Section 1135 of the Social Security Act (SSA) authorizes the Secretary of the U.S. Department of Health and Human Services (HHS) to waive or modify certain federal Medicare, Medicaid, CHIP, and Health Insurance Portability and Accountability Act requirements if the Secretary declares a Public Health Emergency under the Public Health Service Act <u>and</u> the President declares an emergency or disaster under the Stafford Act of the National Emergencies Act. Waiver requests may be retroactive to the beginning of the emergency period (or any subsequent date) and end either upon termination of the public health emergency or 60 days after the waiver was first published. Section 1135 waivers do not affect state laws or regulations, including licensure of non-federal providers and conditions of participation.
Requestor:	State Medicaid agency (HFS)
Approver:	CMS
Entitlement(s):	Title XVIII (Health Insurance for the Aged and Disabled) Title XIX (Medicaid) Title XXI (CHIP)
Flexibilities:	Fee-for-service prior authorization, long-term services and supports, fair hearings, provider enrollment, and reporting and oversight.
Illinois Request:	Illinois Section 1135 Waiver Request (Mar. 19, 2020) Illinois Section 1135 Waiver Request Fact Sheet (Mar. 19, 2020)
Illinois Approval:	Illinois Section 1135 Partial Approval (Mar. 27, 2020) <i>NOTE: CMS issued identical partial approval letters to states with similar requests. Illinois-specific requests are still under review by CMS.</i>
CMS Resources:	Approved Section 1135 Waiver Flexibilities (all states) Medicaid Section 1135 Waiver Toolkit
COVID-19 Medicaid Section 1115(a) Demonstration	
Overview:	In response to COVID-19, CMS has developed a new section 1115(a) process to request a waiver of compliance with certain federal laws and to authorize

	expenditures not otherwise permitted. In emergency situations, states are deemed to have met budget neutrality requirements and are exempt from the normal public notice process. Approved section 1115(a) demonstrations may be retroactive to March 1, 2020 and expire no later than 60 days after the end of the public health emergency.
Requestor:	State Medicaid Agency (HFS)
Approver:	CMS
Entitlement(s):	Title XIX (Medicaid)
Flexibilities:	Cost sharing, benefits, delivery system, and eligibility.
Illinois Request:	Illinois Section 1115(a) Demonstration Request (Mar. 26, 2020) Illinois Section 1115(a) Demonstration Request Fact Sheet (Mar. 27, 2020) Illinois Medicaid & CHIP Eligibility Changes and Requests to Address COVID-19 (Mar. 27, 2020)
Illinois Approval:	Pending
CMS Resources:	Section 1115(a) Demonstration Approvals (all states) Medicaid Section 1115(a) Waiver Demonstration Toolkit
COVID-19 Medicaid Section 1915(c) Waiver, Appendix K	
Overview:	Appendix K is a standalone appendix that may be used in emergency situations to request amendments to approved 1915(c) home and community-based waiver services authority. Appendix K may be submitted retroactively.
Requestor:	State Medicaid Agency (HFS)
Approver:	CMS
Entitlement(s):	Existing 1915(c) HCBS waiver authority
Flexibilities:	Access and eligibility, services, family caregivers or legally responsible individuals, provider qualifications and types, level of care evaluations and re-evaluations, payment rates, service plan, incident reporting, payment, retainer payments, opportunities for self-direction, increase Factor C, and other changes as necessary.
Illinois Request:	Illinois Section 1915(c) Waiver, Appendix K Document (Mar. 27, 2020)
Illinois Approval:	CMS Approval Letter and CMS-Approved Flexibilities (May 12, 2020)
CMS Resources:	Approved Section 1915(c), Appendix K Documents (all states) Section 1915(c) Waivers, Appendix K Toolkit
Medicaid Disaster Relief State Plan Amendments (SPAs)	
Overview:	Medicaid and CHIP state plans are agreements between a state and the federal government describing the administration of the state's Medicaid or CHIP program. SPAs are submitted when the state is requesting a modification to its state plan that does not require a change in federal law. Medicaid Disaster Relief SPAs and CHIP Disaster Relief SPAs are exempt from the normal public notice process and may be retroactive to the date the President or Secretary of HHS declared a public health emergency, or any subsequent date.
Requestor	State Medicaid Agency (HFS)

Approver:	CMS
Entitlement(s):	Title XIX (Medicaid) Title XXI (CHIP)
Flexibilities:	Eligibility, enrollment, premiums and cost sharing, benefits, payments, post-eligibility treatment of income, and other applicable policies and procedures.
Illinois Approval:	Illinois Disaster Relief Medicaid SPA Approval (Title XIX) (Apr. 24, 2020)
CMS Resources:	Disaster Relief SPA Approvals (all states) Disaster Relief State Plan Toolkit
Medicaid Amended Verification Plans	
Overview:	States may change Medicaid and CHIP verification processes in response to a disaster without obtaining CMS approval through an amended Verification Plan. CMS notification and concurrence is recommended. Verification Plan amendments take effect immediately.
Requestor:	State Medicaid Agency (HFS)
Approver:	N/A
Entitlement(s):	Title XIX (Medicaid) Title XXI (CHIP)
Flexibilities:	Accept self-attestation when documentation needed to verify eligibility is not available due to a disaster, with the exception of citizenship/immigration status.
Illinois Request:	N/A
Illinois Approval:	N/A
CMS Resources:	N/A
Medicaid Managed Care Plan Contract Amendments	
Overview:	A state Medicaid agency may require Medicaid MCOs to temporarily lift certain utilization management requirements by amending managed care plan contracts.
Entitlement(s):	Title XIX (Medicaid) Title XXI (CHIP) <i>NOTE: COVID-19 obligations for Medicare-Medicaid Alignment Initiative Plans are governed by CMS.</i>
Flexibilities:	Suspend prior authorization requirements, extend current authorizations, expedite processing of new authorization requests, allow flexibility in documentation, suspend out-of-network requirements, and extend initial care management screening timeframes.
Illinois Contract Amendments:	Pending.
CMS Resources:	COVID-19 FAQs for State Medicaid and CHIP Agencies (Apr. 2, 2020) CMS Memorandum to Medicare Advantage Organizations, Part D Sponsors and Medicare-Medicaid Plans (March 10, 2020)