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State/Territory Name: West Virginia

State Plan Amendment (SPA) #: 21-0011

This file contains the following documents in the order listed:

1) Approval Letter
2) CMS 179 Form/Summary Form (with 179-like data)
3) Approved SPA Pages
October 13, 2021

Cynthia Beane, MSW, LCSW
Commissioner
Bureau for Medical Services
350 Capitol Street, Room 251
Charleston, WV 25301-3706

Re: West Virginia State Plan Amendment (SPA) 21-0011

Dear Commissioner Beane:

We have reviewed the proposed amendment to add section 7.4 Medicaid Disaster Relief for the COVID-19 National Emergency to your Medicaid state plan, as submitted under transmittal number (TN) 21-0011. This amendment proposes to implement temporary policies, which are different from those policies and procedures otherwise applied under your Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof).

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 of the 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 this state plan provision will no longer be in effect, upon termination of the public health emergency, including any extensions.
The State of West Virginia requested a waiver of public notice requirements applicable to the SPA submission process. Pursuant to section 1135(b)(1)(C) of the Act, CMS is waiving public notice requirements applicable to the SPA submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42 C.F.R. §440.386 for changes to Alternative Benefit Plans (ABPs). Pursuant to section 1135(b)(1)(C) of the Act, CMS is approving the state’s request to waive these notice requirements otherwise applicable to SPA submissions.

This waiver of the requirements related to public notice applies only with respect to SPAs that meet the following criteria: (1) the SPA provides or increases beneficiary access to items and services related to COVID-19 (such as by waiving or eliminating cost sharing, increasing payment rates or amending ABPs to add services or providers); (2) the SPA does not restrict or limit payment or services or otherwise burden beneficiaries and providers; and (3) the SPA is temporary, with a specified sunset date that is not later than the last day of the declared COVID-19 public health emergency (or any extension thereof). We nonetheless encourage states to make all relevant information about the SPA available to the public so they are aware of the changes.

We conducted our review of your submittal according to the statutory requirements at section 1902(a) of the Act and implementing regulations. This letter is to inform you that West Virginia’s Medicaid SPA Transmittal Number 21-0011 is approved effective August 1, 2021. This SPA is in addition to the Disaster Relief SPAs approved on August 13, 2020, December 17, 2020, April 8, 2021, May 7, 2021, and August 27, 2021 and does not supersede anything approved in those SPAs.

Enclosed is a copy of the CMS-179 summary form and the approved state plan pages.

Please contact Dan Belnap at 215-861-4273 or by email at Dan.Belnap@cms.hhs.gov if you have any questions about this approval. We appreciate the efforts of you and your staff in responding to the needs of the residents of the State of West Virginia and the health care community.

Sincerely,

Alissa M. DeBoy
On Behalf of Anne Marie Costello, Deputy Director
Center for Medicaid and CHIP Services

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

1. TRANSMITTAL NUMBER: 21-0011
2. STATE: West Virginia
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

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

4. PROPOSED EFFECTIVE DATE: August 1, 2021

5. TYPE OF PLAN MATERIAL (Check One)
   - [ ] NEW STATE PLAN
   - [ ] AMENDMENT TO BE CONSIDERED AS NEW PLAN
   - [X] AMENDMENT

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

6. FEDERAL STATUTE/REGULATION CITATION
   Title 19 of the Social Security Act; Section 1135 of the Social Security Act

7. FEDERAL BUDGET IMPACT
   a. FFY 2021
   b. FFY 2022

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
   Section 7 - General Provisions
   7.4 Medicaid Disaster Relief for COVID-19 National Emergency

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
   N/A

10. SUBJECT OF AMENDMENT
The purpose of this amendment is to remove the requirement for prior authorizations for service destinations and nonemergency services for ambulances during the COVID-19 emergency. This will ensure that ambulance services and service destinations are not restricted during the public health emergency period.

11. GOVERNOR’S REVIEW (Check One)
   - [X] GOVERNOR’S OFFICE REPORTED NO COMMENT
   - [ ] COMMENTS OF GOVERNOR’S OFFICE ENCLOSED
   - [ ] NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
   - [ ] OTHER, AS SPECIFIED

12. SIGNATURE OF STATE AGENCY OFFICIAL
   Cynthia Beane, MSW, LCSW
   Digitally signed by Cynthia Beane, MSW, LCSW
   Date: 2021-08-30 13:20:50-04'00'

13. TYPED NAME
   Cynthia Beane

14. TITLE
   Commissioner, Bureau for Medical Services

15. DATE SUBMITTED
   8/30/21

16. RETURN TO
   Bureau for Medical Services
   350 Capitol Street Room 251
   Charleston West Virginia 25301

17. DATE RECEIVED
   8/30/2021

18. DATE APPROVED
   10/13/2021

FOR REGIONAL OFFICE USE ONLY

19. EFFECTIVE DATE OF APPROVED MATERIAL
   8/1/2021

20. SIGNATURE OF REGIONAL OFFICIAL
   Alissa M. Deboy -S
   Digitally signed by Alissa M. Deboy -S
   Date: 2021-10-13 14:04:33 -04'00'

21. TYPED NAME
   Alissa Mooney DeBoy, On behalf of Anne Marie Costello
   Deputy Director, Center for Medicaid & CHIP Services

22. TITLE
   Deputy Director, Center for Medicaid & CHIP Services

23. REMARKS

Instructions on Back
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 6 PM 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.
N/A

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. ____ 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),

TN: 21-0011 Approval Date: 10/13/2021
Supersedes TN: New Effective Date: 08/01/2021

This SPA is in addition to, and does not supersede, the Disaster Relief SPAs approved August 13, 2020 (WV 20-0004), December 17, 2020 (WV 20-0006), April 8, 2021 (WV 21-0007), May 7, 2021 (WV-21-0005), and August 27, 2021 (WV 21-0010).
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. __n/a__ Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in [insert name of State] Medicaid State Plan, as described below:

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.

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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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.

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.
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.

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:

2. _____ The agency suspends enrollment fees, premiums and similar charges for:
   a. _____ All beneficiaries
   b. _____ The following eligibility groups or categorical populations:
3. _____ The agency allows waiver of payment of the enrollment fee, premiums and similar charges for 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. ___X__ The agency makes the following adjustments to benefits currently covered in the State Plan:

   The Agency is suspending the requirements for ambulance providers in Attachment 3.1-D, page 2, 3a and 3b of the State Plan so emergency ambulance service destinations are not restricted to the nearest appropriate medical facility.
   a. Emergency ambulance services to the nearest appropriate medical facility are provided without preauthorization when the emergency treatment is specified and rendered.
   b. Nonemergency ambulance services to a hospital, clinic, physician's office, or other health facility to secure medically necessary Medicaid covered services for a "stretcher bound" Medicaid recipient. "Stretcher bound" denotes the inability to get up from bed without assistance, the inability to ambulate, and the inability to sit in a chair or wheelchair.

3. ___X__ 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. ___X___ 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. ___X__ 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

TN: 21-0011 Approval Date: 10/13/2021
Supersedes TN: New Effective Date: 08/01/2021

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and/or adjusted benefits, or will only receive the following subset:

Telehealth:

5. _____ The agency utilizes telehealth in the following manner, which may be different than outlined in the State’s approved State Plan:

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.

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.

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
   b. _____ Other:

Increases to State Plan payment methodologies:

2. _____ The agency increases payment rates for the following services:

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

   b. Payments are increased through:
      i. _____ A supplemental payment or add-on within applicable upper payment limits:
      
      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): _____________

TN: 21-0011 Approval Date: 10/13/2021
Supersedes TN: New Effective Date: 08/01/2021

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Location (list published location): ______________

___ Up to the Medicare payments for equivalent services.

___ By the following factors:

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;

   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:

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:
This SPA is in addition to, and does not supersede, the Disaster Relief SPAs approved August 13, 2020 (WV 20-0004), December 17, 2020 (WV 20-0006), April 8, 2021 (WV 21-0007), May 7, 2021 (WV-21-0005), and August 27, 2021 (WV 21-0010).

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: 21-0011                                      Approval Date: 10/13/2021
Supersedes TN: New                             Effective Date: 08/01/2021

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