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State/Territory Name: Montana

State Plan Amendment (SPA) #: 20-0024

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



May 8, 2020

Marie Matthews, Medicaid & CHIP Director
Montana Department of Public Health & Human Services
P.O. Box 4210
Helena, MT 59604

Re: Montana State Plan Amendment (SPA) MT-20-0024

Dear Ms. Matthews:

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) 20-0024. 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.

Pursuant to section 1135(b)(5) of the Act, for the period of the public health emergency, CMS is modifying the requirement at 42 C.F.R. 430.20 that the state submit SPAs related to the COVID-19 public health emergency by the final day of the quarter, to obtain a SPA effective date during the quarter, enabling SPAs submitted after the last day of the quarter to have an effective date in a previous quarter, but no earlier than the effective date of the public health emergency.

The State of Montana also 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 also 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.

The State of Montana also requested a waiver to modify the tribal consultation timeline applicable to this SPA submission process. Pursuant to section 1135(b)(5) of the Act, CMS is also allowing states to modify the timeframes associated with tribal consultation required under section 1902(a)(73) of the Act, including shortening the number of days before submission or conducting consultation after submission of the SPA.

These waivers or modifications of the requirements related to SPA submission timelines, public notice, and tribal consultation apply 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 Montana's Medicaid SPA Transmittal Number MT 20-0024 is approved effective March 1, 2020. Please note that the effective date for the new COVID-19 testing eligibility group described at section 1902(a)(10)(A)(ii)(XXIII) of the Act is March 18, 2020.

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

Please contact Barbara B. Prehmus at 303-844-7472 or by email at Barbara.prehmus@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 Montana and the health care community.

Sincerely,

Anne M.
Costello -S

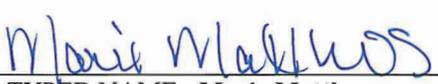
Anne Marie Costello

Deputy Director

Center for Medicaid & CHIP Services

Digitally signed by Anne
M. Costello -S
Date: 2020.05.08
08:22:38 -04'00'

Enclosures

| | | | |
|---|--|---|---------------------|
| TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL | | 1. TRANSMITTAL NUMBER: MT 20-0024 | 2. STATE Montana |
| FOR: HEALTH CARE FINANCING ADMINISTRATION | | 3. PROGRAM IDENTIFICATION: Title XIX of the Social Security Act (Medicaid) | |
| TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES | | 4. PROPOSED EFFECTIVE DATE 03/01/2020 | |
| 5. TYPE OF PLAN MATERIAL (<i>Check One</i>): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate Transmittal for each amendment</i>) | | | |
| 6. FEDERAL STATUTE/REGULATION CITATION: Section 1135 of the Social Security Act Title XIX of the Social Security Act | | 7. FEDERAL BUDGET IMPACT: 1. Optional Group described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Act providing coverage for uninsured individuals March 18, 2020-Open \$810,000 2. Skilled Nursing and Intermediate Care Services Supplemental Payment March 1-June 30, 2020 \$9,956,662.25 | |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Section 7 – General Provisions 7.4. Medicaid Disaster Relief for the COVID-19 National Emergency, Pages 1-10 of 10 | | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): | |
| 10. SUBJECT OF AMENDMENT: The Montana Medicaid agency seeks to implement the policies and procedures described in the disaster relief SPA, 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. | | | |
| 11. GOVERNOR'S REVIEW (<i>Check One</i>): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Single Agency Director Review <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL | | | |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:  | | 16. RETURN TO: Montana Dept. of Public Health and Human Services Marie Matthews State Medicaid Director Attn: Mary Eve Kulawik PO Box 4210 Helena, MT 59604 | |
| 13. TYPED NAME: Marie Matthews | | | |
| 14. TITLE: State Medicaid Director | | | |
| 15. DATE SUBMITTED: 5-1-2020 | | | |
| FOR REGIONAL OFFICE USE ONLY | | | |
| 17. DATE RECEIVED: April 27, 2020 | | 18. DATE APPROVED: May 8, 2020 | |
| PLAN APPROVED – ONE COPY ATTACHED | | | |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL: March 1, 2020 | | 20. SIGNATURE OF REGIONAL OFFICIAL: Anne M. Costello -S <small>Digitally signed by Anne M. Costello -S Date: 2020.05.08 08:23:26 -04'00'</small> | |
| 21. TYPED NAME: Anne Marie Costello | | 22. TITLE: Deputy Director, Center for Medicaid & CHIP Services | |

23. REMARKS:

Pen-and-ink change made to Boxes 6 and 9 by CMS with Montana concurrence on 5/6/2020.

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:

The changes identified below are implemented for the duration of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof), unless a shorter period has been identified elsewhere in the below amendment for specific items.

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).

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

DPHHS will consult with I/T/U’s by standard mail or email concurrent or following the submission of an amendment or waiver to CMS. DPHHS will be available to host meetings with I/T/U’s to discuss any amendment or waiver following its submission.

“I/T/U’s” mean Tribal Presidents or Tribal Chairmen from Federally recognized Tribes, the Director of the Billings Area Indian Health Service, Urban Indian Organizations, and Tribal Health Departments.

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.

Optional group described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Act providing coverage for uninsured individuals. This eligibility group is effective March 18, 2020.

- 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:

[Empty text box]

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:

[Empty text box]

- 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.

[Empty text box]

- 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.

[Empty text box]

- 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:

- 2. ___ The agency suspends enrollment fees, premiums and similar charges for:
 - a. ___ All beneficiaries
 - b. ___ The following eligibility groups or categorical populations:

N/A

- 3. ___ The agency allows waiver of payment of the enrollment fee, premiums and similar charges for undue hardship.

N/A

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:

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

Covered Telemedicine/Telehealth Services
 All Montana Medicaid covered services delivered via telemedicine/telehealth are reimbursable so long as a) such services are medically necessary and clinically appropriate for delivery via telemedicine/telehealth, b) comport with the guidelines set forth in the applicable Montana Medicaid provider manual, and c) are not a service specifically required to be face-to-face as defined in the applicable Montana Medicaid provider manual.

Allowable Telemedicine/Telehealth Methods and Technologies
 There are no specific requirements for technologies used to deliver services via telemedicine/telehealth and can be provided using: secure portal messaging, secure instant messaging, telephone conversations, and audio-visual conversations.

Requirements for telemedicine/telehealth encounters

- To the extent possible, providers must ensure members have the same rights to confidentiality and security as provided during traditional office visits.
- Providers must follow consent and patient information protocol consistent with those followed during in person visits.
- Telemedicine/telehealth does not alter the scope of practice of any health care provider; or authorize the delivery of health care services in a setting or manner not otherwise authorized by law.
- Record keeping must comply with in Administrative Rules of Montana (ARM) 37.85.414.

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.

Montana cover a maximum of a 90-day supply for all drugs excluding Schedule II drugs. In Montana, Schedule II drugs include most opioids, amphetamines, methylphenidate, etc.

Montana will, for drugs dispensed for both 34- and 90-day refills, change the refill "too-soon" edit to allow for refills at 50%. Patients will be able to get a refill for a 34-day supply at 17 days and at 45 days for a 90-day supply.

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. X The agency increases payment rates for the following services:

Skilled Nursing and Intermediate Care Services

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

Please describe criteria.

b. Payments are increased through:

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

The state will issue supplemental payments to Skilled Nursing and Intermediate Care Service Facilities equivalent to \$40 per day per Medicaid member effective for dates of payment March 1, 2020 through June 30, 2020. The state will not claim FFP for any amounts exceeding the applicable upper payment limit.

Montana utilizes a paid claims query to determine the number of Medicaid paid bed days per facility. The query is run every 2 weeks after a payment cycle is complete, with the exception of the first run covering 3/1/2020 to 4/15/2020. This is the basis of payments. Bed days are multiplied by \$40 to determine the payment. The payments are sent out via the Medicaid agency's Business and Financial Services Division; a history-only adjustment to the claims system is completed by the agency's Senior and Long Term Care Division staff.

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;

- 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.

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.