



National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

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Section 1135 Medicaid Waiver Authority – Illinois

Background

When the President of the United States declares a disaster or emergency under the Stafford Act or National Emergencies Act and the Department of Health and Human Services (HHS) Secretary declares a public health emergency under Section 319 of the Public Health Service Act, the HHS Secretary is authorized to use Section 1135 of the Social Security Act to modify certain Medicare, Medicaid, and Children’s Health Insurance Program (CHIP) requirements in order to allow states to respond to the emergency.

On March 23, 2020, the Centers for Medicare & Medicaid Services (CMS) approved Illinois’s Section 1135 waiver, accessible [here](#). This one-pager is meant to be a general guide and is not an exhaustive description of the waiver.

What does Illinois’s Section 1135 waiver look like?

This waiver makes several changes to Illinois’s Medicaid program, as outlined below:

Provider Enrollment

CMS authorized Illinois to expedite the enrollment of out of state providers who are not currently enrolled in the state’s Medicaid program. Illinois may continue to use existing procedures to enroll out of state providers who are already in the state’s Medicaid program (with one small exception, CMS is waiving the limit on claims within a 180 day period).

CMS has also authorized providers not currently enrolled in Medicare or another state’s Medicaid agency to temporarily enroll in Illinois’s programs. To make this possible, Illinois will be allowed to waive application fee requirements, criminal background checks, site visits, and state licensure requirements. However, the program provider must maintain an out of state license. To these temporarily authorized providers, Illinois must cease payment within six months of the emergency declaration being lifted, unless the providers submit an application for full participation in the program and are approved.

CMS has also authorized the state’s request to temporarily cease revalidation of providers who are located in Illinois or otherwise impacted by the emergency.

Pre-Approval Requirements

Illinois is also authorized to temporarily waive or modify pre-approval requirements for Medicaid procedures through its fee for service program. This applies to services provided on or after March 1, 2020, through the termination of the emergency.



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Pre-Admission Screening and Annual Resident Review

Level 1 and 2 assessments can be waived for 30 days and all new admissions can be treated like exempt hospital discharges. While CMS is not setting a time frame for the completion of Resident Reviews, reviews should be completed on new admissions with a mental illness or intellectual disability diagnosis as soon as resources are available.

Allowing services in alternative settings

Pursuant to the waiver, Illinois may allow services to be provided in unlicensed settings, such as a temporary shelter, when a provider's facility is not available. The state has to make a reasonable assessment that the facility meets minimum standards to ensure the health, safety, and comfort of beneficiaries and staff. The placing facility is responsible for determining reimbursements for the temporary setting.

State fair hearing requests and appeal deadlines

Illinois is approved to modify the timeline under which managed care enrollees can request an appeal of a denial of services. Enrollees may request a state fair hearing immediately, bypassing the requirement to exhaust all appeals with their managed care organization. Further, Illinois is authorized to waive the 120 day deadline for enrollees to file an appeal with the state, provided the 120 day deadline would have occurred between March 1, 2020 and the end of the public health emergency. Managed care recipients in that situation will receive an additional 120 days to file their appeal for a state fair hearing.

How does this affect Tribes?

If a state seeks a Section 1135 waiver, Tribes are impacted by its provisions. Illinois has two Urban Indian health organizations.



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Medicaid Disaster State Plan Amendment - Illinois

Background

The Medicaid State Plan is the foundational document for a state's Medicaid program; it sets the rules for eligibility, benefits, and payments. Before a state can participate in the Medicaid program, it must file a state plan with the Centers for Medicare & Medicaid Services (CMS). There are certain requirements that a state plan must adhere to and if a state wishes to deviate from these statutory requirements, they must seek a waiver (such as a Section 1115 or Section 1915 waiver) of the usual Medicaid rules. When a state wants to amend their State Plan, they have to file what is called a "State Plan Amendment" (SPA).

On April 24, 2020, Illinois was approved for an Emergency State Plan Amendment in order to respond to COVID-19. You can find it [here](#).

On December 14, 2020, Illinois was approved for a 2nd Emergency SPA. You may find that [here](#).

On December 14, 2020, Illinois was approved for a 3rd Emergency SPA. You may find that [here](#).

All approvals are for the duration of the federally declared COVID-19 emergency, unless stated otherwise.

COVID-19 Testing

Illinois is amending their State Plan to allow for the coverage of COVID-19 testing for uninsured individuals. They will be also authorized to allow diagnosis and antibody testing in non-office settings (e.g., parking lots) and the laboratory processing of self-collected diagnostic and antibody systems that the FDA has authorized for home use

Premiums and Cost Shares

Illinois is amending their State Plan to allow for the suspend enrollment fees, premiums, and similar charges for those enrolled in the Ticket to Work (Medicaid Buy In) program.

Less Restrictive Resource Methodologies

Illinois is amending their State Plan to allow for the elimination of the resource test for certain groups.

Preferred Drug List

Illinois amends their State Plan to allow for exceptions to their published Preferred Drug List if drug shortages occur.

State Residency



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Illinois is amending their State Plan to be allowed to consider individuals who have evacuated from the state due to the public health emergency and who intend to return to continue being considered state residents for the purpose of receiving Medicaid.

Presumptive Eligibility

Illinois is amending their State Plan to allow for presumptive eligibility for MAGI parents and caretakers, former foster care recipients, pregnant women, and Medicaid Expansion adults.

Telehealth Reimbursement

Illinois is amending their State Plan to add virtual check-in visit and e-visit codes to the COVID-19 Virtual Health Care Expansion Fee Schedule. FQHCs, RHCs, Encounter Rate Clinics, and Critical Clinic Providers may bill these codes, fee-for-service, at the rate established by the state. They will not receive their established encounter rate for virtual check-ins and e-visits.

Isolation and Quarantine Services

Illinois is amending their State Plan to provide enhanced rates to COVID-19 designated facilities for isolation and quarantine services and ventilator services.

Questions?

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