



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
LANSING

GRETCHEN WHITMER  
GOVERNOR

ROBERT GORDON  
DIRECTOR

June 1, 2020

NAME  
TITLE  
ADDRESS  
CITY STATE ZIP

Dear Tribal Chair and Health Director:

**RE:** Michigan Department of Health and Human Services (MDHHS) Response to Address COVID-19 Public Health Emergency

This letter, in compliance with Section 1902(a)(73) and Section 2107(e)(1)(C) of the Social Security Act, serves as notice to all Tribal Chairs and Health Directors of the intent by MDHHS to submit Section 1135 Waiver, Disaster Relief Children's Health Insurance Program (CHIP), Medicaid State Plan Amendments (SPAs), Appendix K Preprints, and Section 1115 Demonstration requests to the Centers for Medicare & Medicaid Services (CMS).

The purpose of the Waiver and SPA requests is to obtain the authority to utilize flexibilities in connection with the COVID public health emergency. These flexibilities will allow MDHHS the ability to fully address the health needs of Medicaid beneficiaries during this public health emergency.

The list of authorities that can be used by MDHHS includes Section 1113 Waiver, Disaster Relief State Plan Amendment for the Medicaid Program and CHIP, Appendix K and Section 1115 Waiver to allow temporary flexibilities requested in these authorities are as follows:

### **Section 1135 Waiver**

The Section 1135 Waiver allows MDHHS to request the flexibility to modify or waive Medicaid requirements during COVID-19. The requested flexibilities during COVID-19 are:

- Suspend prior authorization and extend pre-existing authorizations per Michigan Medicaid policy.
- Modify provider enrollment requirements per Michigan Medicaid policy.
- Modify deadlines for Outcome & Assessment Information Set (OASIS) and Minimum Data Set (MDS) assessments and transmission.
- Provide flexibility for options for use of nursing facility beds.

- Relax current Medicaid policy to allow the transfer of beneficiaries to lower acuity facilities in an effort to free hospital resources for incoming COVID-19 cases. Interfacility hospital transfers to lower acuity facilities via ambulance transports will be allowed in an effort to free hospital resources for incoming COVID-19 cases.
- Suspend Scope of Practice Laws, allowing qualified physician assistants, nurses to treat COVID-19 patients.
- Allow provision of services in alternative settings.
- Allow verbal permission in lieu of required written consent or beneficiary signatures per Michigan Medicaid policy.
- Modify the requirement to submit SPAs related to the COVID-19 emergency by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020.
- Waive the public notice requirements applicable to the SPA and waiver submission process.
- Modify the timeframes associated with tribal consultation, including shortening the number of days before submission or conducting consultation after submission of the SPA or waiver.

### **SPA for Disaster Relief of COVID-19**

The Disaster Relief SPA allows MDHHS to request temporary flexibility in addressing health care needs and support for Medicaid beneficiaries during COVID-19. The requested flexibilities during COVID-19 are:

- Allow telehealth/telemedicine including telephony to replace face-to-face visits and assessments.
- Waive quantity limits for durable medical equipment (DME), medical supplies, and prescription drugs.
- Waive cost sharing for testing services, testing-related services, and treatments for COVID-19, including vaccines, specialized equipment and therapies (including drugs), for any quarter in which the increased Financial Medical Assistance Percentage (FMAP) is claimed.
- Allow early refill for prescription drugs per Michigan Medicaid policy.
- The State allows physicians and other licensed practitioners, in accordance with State law, to order Medicaid home health services as authorized in the COVID-19 Public Health Emergency Medicare Interim Final Rule.
- Suspend the requirement for written order for non-emergency interfacility ambulance transfers and ambulance transportation to place of residence after hospital discharge.
- Suspend the requirement for medical verification for transportation for beneficiaries who requires special non-emergency medical transportation (vehicle or attendant) for round trip and mileage rates more than the fee-for-service (FFS) fee schedule, and transportation reimbursement requests for medical care outside a beneficiary's community when comparable care is available locally.
- Extend pre-existing person-centered services plans.

- Allow covered laboratory services to include tests used to diagnose or detect SARS-CoV-2 or antibodies to SARS-CoV-2 that do not meet certain conditions per Michigan Medicaid policy.
- Allow for temporary premium payment of \$2.00 for self-employed providers of personal care services and behavioral health treatment behavior technician services for in-person care and of \$2.24 per hour for agency employed providers of personal care services and behavioral health treatment behavior technician services for in-person care effective April 1, 2020 through June 30, 2020.
- Allow for Nursing Facility COVID-19 Regional Hubs effective April 16, 2020, as designated by the State of Michigan will receive a \$5,000 per bed payment the first month to address immediate staffing needs and infrastructure changes required to assure the facilities are able to meet the patient safety protocols necessary with this higher level of care. After the first month, a supplemental payment of \$200 per beneficiary per day will be built into the per diems for nursing facility COVID-19 Regional Hubs to account for the higher costs of serving this population.
- Allow licensed registered nurses and licensed practical nurses to order COVID-19 laboratory testing without being required to enroll as participating providers.
- Modify long term care facilities cost reporting deadlines.

### **Appendix K Preprint**

The Appendix K Preprint allows MDHHS to request an emergency amendment to its home and community-based services (HCBS) programs during COVID-19. The HCBS Programs that require an Appendix K Preprint are Behavioral Health Demonstration, Children's Waiver Program, Habilitation Supports Waiver, MI Choice, HCBS MI Health Link Programs during COVID-19. The approval by CMS for these flexibilities will continue until February 28, 2021. The requested flexibilities in operating the HCBS Programs during COVID-19 are:

- Ability to pay higher rates for HCBS providers in order to maintain capacity.
- Allow payment for personal, community living, behavioral and communication supports [e.g., services to promote activities of daily living (ADLs) and instrumental activities of daily living (IADLs)], not otherwise provided in that setting, to support individuals in an acute care hospital or short-term institutional setting, when MDHHS identifies that no other alternatives are available, and an institution or hospital is the only setting that service may be offered to meet an individual's health and safety needs. Services provided will not be duplicative of hospital or short-term institutional services provided in those settings.
- Temporarily suspend the limit on respite services.
- Allow for verbal or e-mail approval in order to authorize and commence services, while awaiting the written or electronic signed document.
- Allow an extension for HCBS reassessments and reevaluations for up to one year past the due date.
- Temporarily suspend quantity limit for private duty nursing services for waiver beneficiaries.

- Temporarily relax HCBS provider training requirements.
- Temporarily suspend limitations on who may receive a home delivered meal so that any MI Choice and HCBS MI Health Link beneficiaries in need may receive a home delivered meal during this emergency.
- Allow telehealth/telemedicine including telephony to replace face-to-face visits and assessments.

### **Section 1115 Waiver Amendment**

The Section 1115 Waiver Amendment will allow MDHHS to request flexibility in addressing health care needs and support for behavioral health beneficiaries during COVID-19. The requested flexibilities during COVID-19 are:

- Ability to pay higher rates for HCBS providers in order to maintain capacity.
- Allow payment for personal, community living, behavioral and communication supports [e.g., services to promote activities of daily living (ADLs ) and instrumental activities of daily living (IADLs)], not otherwise provided in that setting, to support individuals in an acute care hospital or short-term institutional setting, when MDHHS identifies that no other alternatives are available, and an institution or hospital is the only setting that service may be offered to meet an individual's health and safety needs. Services provided will not be duplicative of hospital or short-term institutional services provided in those settings
- Temporarily suspend the limit on respite services.
- Allow for verbal or e-mail approval in order to authorize and commence services, while awaiting the written or electronic signed document.
- Allow an extension for HCBS reassessments and reevaluations for up to one year past the due date.
- Temporarily suspend quantity limit for private duty nursing services for waiver beneficiaries.
- Temporarily relax HCBS provider training requirements.
- Allow telehealth/telemedicine including telephony to replace face-to-face visits and assessments.

The approval by CMS for these flexibilities will continue until the public health emergency is over unless otherwise stated above.

The impact on the Native American beneficiaries, tribal health clinics and urban Indian organizations is to address the healthcare needs and support during this public health emergency.

The anticipated effective date of these temporary changes is March 1, 2020, unless otherwise stated above.

The documents are available online at [www.michigan.gov/coronavirus](http://www.michigan.gov/coronavirus) >> Resources >> For Residents.

Due to the public health emergency, the Tribal consultation timeline requirements identified in the State Plan and Waiver have been modified per the approved Section 1135 Waiver. There is no public hearing scheduled for these submissions. Input is highly encouraged, and comments regarding this notice of intent may be submitted to Lorna Elliott-Egan, MDHHS Liaison to the Michigan tribes. Lorna can be reached at 517-284-4034, or via email at [Elliott-EganL@michigan.gov](mailto:Elliott-EganL@michigan.gov). **Please provide all input by July 16, 2020.**

In addition, MDHHS provided a brief overview of the authority flexibilities being requested related to the public health emergency during the Tribal Health Directors Quarterly Consultation Conference Call on May 18, 2020, and is offering to set up additional group or individual consultation meetings to discuss the temporary changes, according to the tribes' preference. Consultation meetings allow tribes the opportunity to address any concerns and voice any suggestions, revisions, or objections to be relayed to the author of the proposal. If you would like additional information or wish to schedule a consultation meeting, please contact Lorna Elliott-Egan at the telephone number or email address provided above.

MDHHS appreciates the continued opportunity to work collaboratively with you to care for the residents of our State.

Sincerely,



Kate Massey, Director  
Medical Services Administration

cc: Tannisse Joyce, CMS  
Keri Toback, CMS  
Leslie Campbell, CMS  
Nancy Grano, CMS  
Chastity Dial, CEO, American Indian Health and Family Services of Southeastern Michigan  
Daniel Frye, Director, Indian Health Service - Bemidji Area Office  
Lorna Elliott-Egan, MDHHS

**Distribution List for L 20-34**  
**June 1, 2020**

Mr. Bryan Newland, Tribal Chairman, Bay Mills Indian Community  
Ms. Audrey Breakie, Health Director, Bay Mills (Ellen Marshall Memorial Center)  
Mr. Thurlow Samuel McClellan, Chairman, Grand Traverse Band Ottawa & Chippewa Indians  
Mr. Soumit Pendharkar, Health Director, Grand Traverse Band Ottawa/Chippewa  
Mr. Kenneth Meshigaud, Tribal Chairman, Hannahville Indian Community  
Ms. G. Susie Meshigaud, Health Director, Hannahville Health Center  
Mr. Warren C. Swartz, Jr., President, Keweenaw Bay Indian Community  
Ms. Kathy Mayo, Interim Health Director, Keweenaw Bay Indian Community - Donald Lapointe Health/Educ Facility  
Mr. James Williams, Jr., Tribal Chairman, Lac Vieux Desert Band of Lake Superior Chippewa Indians  
Ms. Sadie Valliere, Health & Human Services Director, Lac Vieux Desert Band  
Mr. Larry Romanelli, Ogema, Little River Band of Ottawa Indians  
Mr. Daryl Wever, Health Director, Little River Band of Ottawa Indians  
Ms. Regina Gasco-Bentley, Tribal Chairman, Little Traverse Bay Band of Odawa Indians  
Ms. Jodi Werner, Health Director, Little Traverse Bay Band of Odawa  
Mr. Bob Peters, Chairman, Match-E-Be-Nash-She-Wish Potawatomi Indians (Gun Lake Band)  
Ms. Kelly Wesaw, Health Director, Match-E-Be-Nash-She-Wish Potawatomi  
Mr. Jamie Stuck, Tribal Chairman, Nottawaseppi Huron Band of Potawatomi Indians  
Ms. Rosalind Johnston, Health Director, Huron Potawatomi Inc.- Tribal Health Department  
Mr. Matthew Wesaw, Tribal Chairman, Pokagon Band of Potawatomi Indians  
Mr. Matt Clay, Health Director, Pokagon Potawatomi Health Services  
Mr. Tim Davis, Tribal Chief, Saginaw Chippewa Indian Tribe  
Mrs. Karmen Fox, Executive Health Director, Nimkee Memorial Wellness Center  
Mr. Aaron Payment, Tribal Chairman, Sault Ste. Marie Tribe of Chippewa Indians  
Mr. Leonid Chugunov, Health Director, Sault Ste. Marie Tribe of Chippewa Indians - Health Center

CC: Tannisse Joyce, CMS  
Keri Toback, CMS  
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