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MO HEALTHNET DIVISION
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March 20, 2020

Ms. Jackie Glaze, Acting Director
Medicaid and CHIP Operations
Centers for Medicare and Medicaid Services
7500 Security Blvd
Baltimore, MD 21244-1850
Jackie.Glaze@cms.hhs.gov

Dear Ms. Glaze:

On March 13, 2020, the President of the United States declared the 2019 novel coronavirus (COVID-19) a nationwide emergency pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"). The President's declaration gives the Secretary of the U.S. Department of Health and Human Services the authority to enhance states' ability to respond to the COVID-19 outbreak, including the power to temporarily waive or modify Medicaid and Children's Health Insurance Program (CHIP) requirements under Section 1135 of the Social Security Act.

Accordingly, the Missouri Department of Social Services through the MO HealthNet Division requests authority to waive certain Medicaid and CHIP requirements to the extent necessary to enable the State to combat the continued spread of COVID-19, including mitigating any disruption in care for MO HealthNet participants during the course of the emergency declaration. We request any modifications or waivers that CMS grants be retroactive to March 1, 2020.

To the extent that the Centers for Medicare and Medicaid (CMS) determines the waivers are more appropriately granted under Section 1115, 42 U.S.C. § 1315, the State asks that CMS deem the requests under that section.

1135 Waiver Requests

Strengthening the Workforce

Missouri respectfully requests a waiver that allows additional providers to offer both emergency and non-emergency care to Missouri's MO HealthNet populations.

Interpretive services are available by calling the Participant Services Unit at 1-800-392-2161.
Prevodilačke usluge su dostupne pozivom odjela koji učestvuje u ovom servisu na broj 1-800-392-2161.
Servicios Interpretativos están disponibles llamando a la unidad de servicios de los participantes al 1-800-392-2161.

AUXILIARY AIDS AND SERVICES ARE AVAILABLE UPON REQUEST TO INDIVIDUALS WITH DISABILITIES

TDD / TTY: 800-735-2966

RELAY MISSOURI: 711

Missouri Department of Social Services is an Equal Opportunity Employer/Program.

- A. Waive the requirement that physicians and other healthcare professionals be licensed in Missouri to the extent consistent with state law.
- B. Allow flexibility so that providers enrolled to provide Home and Community Based Services (HCBS) may provide alternative HCBS as needed to ensure the health, safety and welfare of Medicaid HCBS participants.
- C. Allow temporary flexibility in existing protocols between teaching physicians and residents while providing care in teaching hospitals.

Emergency Medical Treatment and Labor Act (EMTALA)

- A. Missouri respectfully requests suspension of the EMTALA requirements for a medical screening examination (42 U.S.C. § 1395dd(a) and accompanying regulations). Due to capacity issues, Missouri requests that hospitals have the ability to triage individuals who come to the emergency department and divert individuals without an obvious emergency medical condition to alternative COVID-19 screening sites.
- B. Missouri also requests CMS expand the definition of appropriate transfer (42 U.S.C. § 1395dd(c)(2)) to allow for the transfer of patients to a facility offering a lower level of care, so long as the accepting facility has the capacity and capability to treat the patient. Similarly, we request hospitals be allowed to deny transfers unless the accepting facility offers a level of care needed by the patient that cannot be provided by the transferring hospital.

Delivery of Services by Removing Barriers to Care

Missouri respectfully requests flexibility for the delivery of services by removing barriers to care as follows:

- A. Allow telehealth visits without an established physician/patient relationship and allow phone visits from the patient's phone. Additionally, allow flexibility for licensed and certified home health agencies to provide home health services by telehealth as determined necessary and appropriate, and supported by the plan of care.
- B. Personal Care Services and Authorized Nurse Visits
 - Flexibility to deliver services not prior authorized by the State in order to ensure timely delivery of services.
 - Flexibility to deliver personal care services not in accordance with a service plan approved by the state.
 - Flexibility to conduct Authorized Nurse Visits via telephone as appropriate.
 - Flexibility to deliver personal care services not in accordance with a service plan approved by the state in a licensed Residential Care Facility I or II.
 - Flexibility to allow HCBS providers to deliver non-emergency medical transportation at the current HCBS provider rate.
- C. Personal Care Services (Consumer-Directed Model)

- Flexibility to deliver services not prior authorized by the state in order to ensure timely delivery of services
 - Flexibility to deliver personal care services not in accordance with a service plan approved by the state.
 - Flexibility in required training and orientation of consumer.
 - Flexibility in required qualification and training of attendant.
 - Flexibility to waive certain requirements of Consumer Directed Service (CDS) providers compliance with Section 208.900 to 208.927 RSMo, and the regulations promulgated hereunder by 19 CSR 15-8 in order to appropriate care in a timely manner
- D. Community Psychiatric Rehabilitation (CPR) services, Comprehensive Substance Treatment and Rehabilitation (CSTAR) services and Certified Community Behavioral Health Clinics (CCBHC) services:
- Flexibility to permit telephonic and other telehealth/electronic means (video, email and text) for providing services.
 - Flexibility to continue prospective payments (PPS) to CCBHCs and fee-for-service payments to non-CCBHO FFS providers for services delivered via non-face-to-face telehealth/electronic methods.
 - Flexibility to waive client signatures on required documents.
 - Flexibility to allow community support services to be delivered by all clinical staff with appropriate training, as determined by the agency, to perform this function.
 - Flexibility to waive certain training requirements for new community support specialists, peer support specialists, and family support specialists
- E. Division of Developmental Disabilities (DD) Targeted Case Management services:
- Flexibility to allow temporary modifications to the individual support plan (ISP) process with verbal approval through non-face-to-face methods (i.e. telephone, video, text, email).
 - Flexibility to allow approval and authorization of ISP changes, via verbal or electronic approval (i.e. telephone, video, text, email)
- F. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) services:
- Excuse the State from the requirement to reduce payments to ICF-IIDs by the patient's cost of care due to the post-eligibility treatment of income.
 - Flexibility to permit alternate settings to receive ICF/IID when a client is moved to a specialty facility to receive care and recover from COVID-19 during the COVID-19 crisis.

Payment Limitations

Missouri respectfully requests flexibility in the following payment limitations:

- A. Permit the State to lift the restriction of the cost maximums for personal care services.

Provider Enrollment and Revalidation Efforts

- A. Missouri respectfully requests a blanket waiver allowing Missouri to waive the following screening requirements, so the State may provisionally, temporarily, enroll providers:
 - Payment of the enrollment application fee
 - Fingerprint based criminal background checks
 - Pre-enrollment site visits
 - In-state/territory licensure requirements
- B. Missouri respectfully requests a blanket waiver allowing the State to temporarily cease revalidation of providers.

Prior Authorization Requirements

Missouri respectfully requests the following flexibilities:

- A. Waiver of all prior authorization requirements at the State's discretion.
- B. Waiver of pre-admission screening and annual resident review (PASRR) Level I and Level II assessment requirements.

Timely Filing Requirements for Billing

- A. Missouri respectfully requests waiver of the timely filing requirements under 42 CFR 424.44 that will allow providers getting correct coding and other structural pieces built into their systems and even payer ability to adjudicate.

Appeals and State Fair Hearings

- A. Missouri respectfully requests flexibility to temporarily delay scheduling of appeals, Medicaid state fair hearings and issuance of fair hearing decisions during the emergency period.
- B. Missouri seeks flexibility to temporarily allow notification of fair hearings rights via telephone.

Public Notice Requirements

- A. Missouri respectfully requests to waive public notice rules (42 CFR 447.205, 447.57) for state plan amendments that only provide or increase beneficiary access to items or services related to COVID-19 and would not be a restriction or limitation on payment or services or otherwise burden beneficiaries until the end of the emergency period.

Performance Deadlines

Missouri respectfully requests flexibility in the timing and implementation of the following:

- A. Conducting the External Quality Review activities in accordance with the Centers for Medicare and Medicaid Services, regulations 42 CFS Parts 433 and 438.
- B. Additional quality functions.

Critical Access and Alternative Settings

Missouri respectfully requests the following relative to critical access and alternative settings:

- A. A blanket waiver of the number of bed and length of stay requirements for Critical Access Hospitals.
- B. A blanket waiver to allow facilities to provide services in alternative settings, such as a temporary shelter when a provider's facility is inaccessible.
- C. Flexibility to deliver HCBS waiver services in alternative settings including a hospital, shelter, or other appropriate setting as needed during this period.

1115 Waiver Requests

In addition to the 1135 waiver requests above, Missouri requests the following 1115 Waiver requests under Section 1115, 42 U.C.S § 1315.

Home Delivered Meals

- A. Missouri requests authority to expand the provision of home delivered meals to all eligible HCBS populations. The state also seeks flexibility to allow nutritional requirements to be waived and allow home delivered meals to be delivered by a restaurant in good standing with the local public health authority.

Freedom of Choice

- A. Missouri requests flexibility to restrict freedom of provider choice in situations where it is necessary to quickly find or assign a new provider to HCBS waiver participants.

Signatures

- A. Missouri seeks flexibility to allow required signatures to be documented via telephone.

Other Administrative Flexibilities

- A. Permit the State to draw federal financing match for payments, such as hardship or supplemental payments, to stabilize and retain providers of Behavioral Health and/or HCBS waiver settings who suffer extreme disruptions to their standard business model and/or revenue streams as a result of the public health emergency.

The State will communicate with CMS as additional flexibility needs are identified. The State also intends to submit an Appendix K for 1915(c) waivers and a CHIP Disaster Relief state plan amendment.

Thank you for your commitment to supporting Missouri's efforts to protect the health and safety of our citizens. We look forward to working with your team on these critical requests.

Respectfully,



Todd Richardson, Director
MO HealthNet Division
Missouri Department of Social Services

cc: Michelle Baldi, Special Assistant, Medicaid and CHIP Operations
Deborah Read, State Lead, Medicaid and CHIP Operations
James Scott, Director, Division of Program Operations
Jennifer Tidball, Director, Missouri Department of Social Services
Mark Stringer, Director Department of Mental Health
Randall Williams, MD, Department of Health and Senior Services
Jessica Dresner, Chief Operating Officer, MO HealthNet
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