



# National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

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## Medicaid Disaster State Plan Amendment Medicaid Waiver Authority

### 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).

### How does this work?

Under normal circumstances, states file SPAs for a variety of reasons. They may file to change reimbursement methodology, introduce new benefits, or change eligibility requirements. For example, when a state expands Medicaid, they have to file a SPA in order to do so. Unlike a waiver, provisions in a SPA do not normally expire. The plan remains in place unless an amended SPA is filed to override previous provisions. There are exceptions, however; if a provision has an expiration date in the SPA, it will cease to exist on that date.

During an emergency, states may utilize the SPA authority to respond. On March 22, 2020, CMS released guidance for filing a SPA to respond to the 2019 novel coronavirus (COVID-19) pandemic, which can be found [here](#). The guidance provides a template checklist of suggested, time-limited revisions to the SPA, including:

- Revisions to eligibility requirements;
- Streamlined enrollment procedures;
- The introduction of telehealth.

States can select from any of the suggested revisions or propose their own.

### How does this affect Tribes?

The terms of a SPA and any applicable waivers impact how the Indian Health Service/Tribes/urban Indians (I/T/U) health system is reimbursed for services provided. For instance, if a SPA is amended to include services or populations that were not previously covered, it becomes a new income source for the I/T/U system.

### How does this affect Tribal consultation?

When a state files a SPA, they usually have to engage in Tribal consultation. However, states can ask for a modification to this requirement through the SPA template that CMS has provided. It is expected that states will utilize this to push for an expedited Tribal consultation.



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## Conclusion

The ability to file a State Plan Amendment to respond to COVID-19 is a powerful tool for states to use to act as urgently as possible in the face of the pandemic. Despite the abbreviated timeline for CMS approval, Tribes should pay close attention to the terms of SPA proposals (and other state tools) because of the potential impact to Medicaid as a third party payor.

## Questions?

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