



National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

910 Pennsylvania Avenue, SE | Washington, D.C. 20003 | 202-507-4070 | www.nihb.org

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Section 1135 Medicaid Waiver Authority – Arizona

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 Arizona's Section 1135 waiver, accessible [here](#).

On May 6, 2020, CMS approved Arizona's 2nd Section 1135 waiver, accessible [here](#).

On June 1, 2020, CMS approved Arizona's 3rd Section 1135 waiver, accessible [here](#).

On July 9, 2020, CMS approved Arizona's 4th 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 Arizona's Section 1135 waiver look like?

This waiver makes several changes to Arizona's Medicaid program, as outlined below:

Provider Enrollment

CMS authorized Arizona to expedite the enrollment of out of state providers who are not currently enrolled in the state's Medicaid program. Arizona 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 Arizona's programs. To make this possible, Arizona 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, Arizona 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.

Pre-Approval Requirements



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Arizona 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.

This also allows for services that were approved on or after March 1, 2020 to continue to be offered without need for a new or renewed prior authorization.

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.

Conflict of Interest Requirements under HCBS State Plan and Waiver Authorities

Arizona may temporarily authorize reimbursement for Home and Community Based Services provided by an entity that also provides case management services and/or is responsible for the development of the person-centered plan in circumstances beyond what is currently allowed under existing regulations.

Requirement to Obtain Beneficiary and Provider Signatures of HCBS Person-Centered Service Plan

Arizona may temporarily wave written consent requirements for person-centered service plans. Providers are authorized to obtain documented verbal consent from the beneficiary and those responsible for its implementation.

1905(a)(7) Home Health State Plan Services Face-to-Face Timeframes

Arizona may modify the deadline for the face-to-face encounter required for Home Health services. The face-to-face encounter does not need to be completed before the start of services and may occur at the earliest time, not to exceed 12 months from the start of service.

HCBS Settings Requirements for Specified Settings

Arizona may offer home and community based services (HCBS) be provided in settings that have not been determined to meet HCBS setting criteria. This applies to settings that have been added since March 17, 2014 and is designed to ensure continuity of services.

How does this affect Tribes?

If a state seeks a Section 1135 waiver, Tribes are impacted by its provisions. Arizona has twenty federally recognized Tribes.



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Medicaid Disaster State Plan Amendment - Arizona

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 1, 2020, Arizona was approved for an Emergency State Plan Amendment in order to respond to COVID-19. You can find that [here](#).

On April 9, 2020, Arizona was approved for a 2nd Emergency State Plan Amendment. You can find that [here](#).

On May 22, 2020, Arizona was approved for a 3rd Emergency State Plan Amendment. You can find that [here](#).

On July 28, 2020, Arizona was approved for a 4th Emergency State Plan Amendment. You can find that [here](#).

On August 4, 2020, Arizona was approved for a 5th Emergency State Plan Amendment. You can find that [here](#).

On September 3, 2020, Arizona was approved for a 6th Emergency State Plan Amendment. You can find that [here](#).

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

Expansion of CHIP

Arizona is amending their State Plan to provide 12 months of continuous eligibility for children under 19, regardless of changes in family income or circumstances.

Premiums and Cost-Shares

Arizona is amending their State Plan to suspend copays and premium requirements.

Prior Authorization of Medications

Arizona is amending their State Plan to automatically renew prior authorization of prescription drugs without clinical review or time/quantity extensions.



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Preferred Drug List

Arizona is amending their State Plan in order to be allowed to make exceptions to their published Preferred Drug List, in the event that drug shortages occur.

Medicaid Home Health Services

Arizona is amending their State Plan to order Medicaid Home Health services as authorized in the COVID-19 Public Health Emergency Medicare interim final rule.

Payment for Reserved Beds

Arizona is amending their State Plan in order to allow for payment for a reserved bed may be made if the absence does not exceed 30 days per contract year. This 30 day limit is cumulative of therapeutic leave days and bed hold days and applies to all age groups. This change does not affect therapeutic leave policy, which remains at 9 cumulative days per contract year.

Nursing Facility Reimbursement

Arizona is amending their State Plan to approve payments to certain nursing facility services providers.

Questions?

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