



National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

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

Updated 12/23/2020

Section 1135 Medicaid Waiver Authority – Alaska

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 April 2, 2020, the Centers for Medicare & Medicaid Services (CMS) approved Alaska's Section 1135 waiver, accessible [here](#).

On May 28, 2020, CMS approved Alaska's 2nd Section 1135 waiver, accessible [here](#).

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

On June 15, 2020, CMS approve Alaska's 4th Section 1135 waiver, accessible [here](#).

On August 19, 2020, CMS approved Alaska's 5th Section 1135 waiver, accessible [here](#).

On December 23, 2020, CMS approved Alaska's 6th 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 Alaska's Section 1135 waiver look like?

Provider Enrollment

CMS authorized Alaska to expedite the enrollment of out of state providers who are not currently enrolled in the state's Medicaid program. Alaska 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 Alaska's programs. To make this possible, Alaska will be allowed to waive application fee requirements, criminal background checks, site visits, and state licensure requirements. However, the program



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provider must maintain an out of state license. To these temporarily authorized providers, Alaska 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-Admission Screening and Annual Resident Review

Level 1 and 2 assessments can be waived for 30 days and all new admissions may 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 having a mental illness or intellectual disability diagnosis as soon as resources are available.

Pre-Approval Requirements

Alaska is also authorized to temporarily waive or modify pre-approval requirements for Medicaid procedures through its fee for service program.

Allowing services in alternative settings

Pursuant to the waiver, Alaska may allow services to be provided in unlicensed settings, such as temporary shelters, 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

Alaska 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, Alaska 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 during the period 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.

Alaska also has the flexibility to allow recipients to have "more than 90 days" to request a state fair hearing for eligibility or fee for service issues.

1915(k) Community First Choice State Plan Option Level of Care Determination and Redetermination Timeline

Alaska can modify the deadline for conducting initial evaluations of eligibility and initial assessments of need to establish a care plan. These activities no longer have to be completed before the start of care. Services will continue until the assessment can occur.

Use of Representatives to Render 1915(k) Services

For more information, visit NIHB's National Tribal COVID-19 Response page at www.nihb.org



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Alaska is approved to temporarily allow payment for 1915(k) attendant services and supports rendered by an individual's representative provided that the state makes a reasonable assessment that the caregiver is capable of rendering such services.

Use of Legally Responsible Individuals to Render Personal Care Services

Alaska will be approved to temporarily allow payment for personal care services by legally responsible individuals, provided that the state makes a reasonable assessment that the caregiver is capable of rendering such services.

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

Alaska 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.

Clinic Facility Requirement

Alaska has received a waiver to the requirement in 42 C.F.R. § 440.90 that services provided under that regulation be provided "by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients." This waiver is provided only to the extent necessary to permit the state and clinic to temporarily designate a clinic practitioner's location as part of the clinic facility so that clinic services may be provided via telehealth when neither the patient nor practitioner is physically onsite at the clinic. The waiver permits services provided via telehealth in clinic practitioners' homes (or another location) to be considered to be provided at the clinic for purposes of 42 C.F.R. § 440.90(a).

Modification of 42 C.F.R. §431.231(a) timeframe for reinstatement of benefits related to fair hearing

Alaska is allowed to extend this timeframe so that it may reinstate services and benefits for beneficiaries who request a fair hearing more than 10 days after the date of action, but not to exceed the time permitted (under either the state plan or under an approved section 1135 waiver) for beneficiaries to request a fair hearing. The state should reinstate the individual's services and benefits as quickly as practicable.

SPA Flexibilities: Tribal Consultation

Alaska has also been approved to modify the Tribal consultation period associated with any emergency SPA that they file to address COVID-19. This applies only to emergency provisions that will sunset at the end of the emergency. No guidance is given as to how much this period may be shortened.

How does this affect Tribes?

If a state seeks a Section 1135 waiver, Tribes are impacted by its provisions. Alaska has 229 federally recognized Tribes.



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Medicaid Disaster State Plan Amendment – Alaska

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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 May 7, 2020, Alaska was approved for an Emergency State Plan Amendment in order to respond to COVID-19. You can find it [here](#).

On June 3, 2020, Alaska was approved for a second Emergency SPA. You can find it [here](#).

All approvals are for the duration of the public health emergency unless otherwise stated.

Premiums and Cost Shares

Alaska is amending their State Plan to waive cost-sharing associated with COVID-19 testing and treatment. This is effective for any quarter in which the increased FMAP is accepted.

They are also waiving enrollment fees, premiums, and similar charges for qualified working disabled individuals.

Personal Care Services

Alaska is amending their State Plan to allow for the provision of Community First Choice personal care services to a recipient in an acute care hospital.

Provider Requirements

Alaska is amending their State Plan to allow students who have completed all required coursework to practice as unlicensed mental health professionals. They are also expanding state plan provisions regarding pharmacists under the OLP benefit for enrolled state licensed pharmacists practicing within their authorized scope practice.

Prescription Drugs



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Alaska is amending their State Plan to allow for claims for medication with days' supply up to 68 days, unless the medication is on the 90-day list, then 90-days will be permitted.

The state will allow for a professional dispensing fee to be reimbursed no more than every 14 days per individual with shipping also being reimbursed. Outpatient covered drugs will also be dispensed by a retail based pharmacy when a medications acquisition cost exceeds the standard "lesser of" payment methodology logic. Providers can petition for reimbursement of the Wholesale Acquisition Cost (WAC) + 1% on a claim-level basis through the point of sale and bypass the Federal Upper Limit and National Average Drug Acquisition Cost.

Targeted Case Management

Alaska is amending their State Plan to increase payment rates for targeted case management and modify the reimbursement to reflect a per episode rate equal to the existing monthly rate.

Laboratory and Radiology Services

Alaska is amending their State Plan in order to allow specific non-physician providers to order laboratory and radiology services, allow coverage of those laboratory services (including outside of the office when the provider meets state qualifications), and order home health services.

Questions?

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