



National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

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Section 1135 Medicaid Waiver Authority – Kansas

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 25, 2020, the Centers for Medicare & Medicaid Services (CMS) approved Kansas's 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 Kansas's Section 1135 waiver look like?

The waiver makes several changes to Kansas's Medicaid program, as outlined below:

Provider Enrollment

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



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Pre-Approval Requirements

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

State fair hearing requests and appeal deadlines

Kansas 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, Kansas 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.

Kansas 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.

How does this affect Tribes?

If a state seeks a Section 1135 waiver, Tribes are impacted by its provisions. Kansas has 4 federally recognized Tribes, Iowa Tribe of Kansas and Nebraska, Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, Prairie Band Potawatomi Nation, and Sac & Fox Nation of Missouri.



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Medicaid Disaster State Plan Amendment – Kansas

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 11, 2020, Kansas was approved for an Emergency State Plan Amendment in order to respond to COVID-19. You can find that [here](#).

On June 11, 2020, Kansas was approved for a 2nd Emergency SPA. You can find that [here](#).

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

Premiums and Cost Shares

Kansas is amending their State Plan to suspend cost-shares for all COVID-19 related services.

Presumptive Eligibility

Kansas is amending their State Plan to allow two PE periods during a twelve month period.

Prescription Drugs

Kansas is amending their State Plan to allow for a 90 day supply for drugs considered "maintenance" drugs.

They are also allowing for prior authorization for medications to be expanded by automatic renewal without clinical review and time/quantity extensions.

Pharmacy Reimbursements

Kansas is amending their State Plan to provide for a \$0.50 increase in the dispensing fee per prescription.

Preferred Drug List

Kansas is amending their State Plan to be allowed to make exceptions to the Preferred Drug List if drug shortages occur.

Increased Payment to Nursing Facilities



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Kansas is amending their State Plan to increase payment rates for services provided at nursing facilities and those for mental health.

Questions?

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