



# National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

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## Section 1135 Medicaid Waiver Authority – Wyoming

### 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 27, 2020, the Centers for Medicare & Medicaid Services (CMS) approved Wyoming's Section 1135 waiver, accessible [here](#).

On July 24, 2020, CMS approved Wyoming's 2<sup>nd</sup> 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 Wyoming's Section 1135 waiver look like?

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

### **Provider Enrollment**

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

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



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## **Allowing services in alternative settings**

Pursuant to the waiver, Wyoming 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**

Wyoming 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, Wyoming 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.

Wyoming 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.

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

Wyoming 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.

## How does this affect Tribes?

If a state seeks a Section 1135 waiver, Tribes are impacted by its provisions. Wyoming has two federally recognized Tribes, the Shoshone and Arapaho Tribes.



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## Medicaid Disaster State Plan Amendment - Wyoming

### 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 7, 2020, Wyoming was approved for an Emergency State Plan Amendment in order to respond to COVID-19. 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

Wyoming is amending their State Plan to suspend premiums for beneficiaries in the Employed Individuals with Disabilities program.

### Questions?

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