

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



September 21, 2020

Robert Gordon
Director
Michigan Department of Health and Human Services
Capitol View Building, 7th Floor
201 Townsend Street
Lansing, Michigan 48913

Re: Section 1135 Flexibilities Requested in April 1, 2020 Initial Communication

Dear Mr. Gordon:

The Centers for Medicare & Medicaid Services (CMS) granted an initial approval to the State of Michigan for multiple section 1135 flexibilities on April 6, 2020. Your initial 1135 request included requests for additional flexibilities we can now approve. Attached, please find a response to your requests for waivers or modifications, pursuant to section 1135 of the Social Security Act (Act), to address the challenges posed by COVID-19. This approval addresses those requests related to HCBS and Clinical Telehealth flexibilities. To the extent the requirements the state requested to waive or modify apply to CHIP, the state may apply the approved flexibilities to CHIP. This applies to the waivers included below, as well as the 1135 waivers granted to the state on April 6, 2020.

On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency by the authorities vested in him by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and consistent with section 1135 of the Act. On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act as a result of the consequences of the COVID-19 pandemic, to the extent necessary, as determined by CMS, to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and section 1135 waivers will no longer be available, upon termination of the public health emergency, including any extensions.

To streamline the section 1135 waiver request and approval process, CMS has issued a number of blanket waivers for many Medicare provisions, which primarily affect requirements for individual facilities, such as hospitals, long term care facilities, home health agencies, and so on. Waiver or modification of these provisions does not require individualized approval, and, therefore, these authorities are not addressed in this letter. Please refer to the current blanket waiver issued by CMS that can be found at: <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>.

CMS continues to work on the additional waiver or modification requests that are not currently reflected in the attached approval. For those waiver or modification requests that require approval under authority other than section 1135, such as under applicable regulations, through an amendment to the state plan, or through a section 1115 demonstration, my staff will continue to work with your team to review and make determinations regarding approval as quickly as possible.

Please contact Jackie Glaze, Deputy Director, Medicaid and CHIP Operations Group, at (404) 387-0121 or by email at Jackie.Glaze@cms.hhs.gov if you have any questions or need additional information. We appreciate the efforts of you and your staff in responding to the needs of the residents of the State of Michigan and the health care community.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne Marie Costello". The signature is fluid and cursive, with the first name "Anne" being the most prominent.

Anne Marie Costello
Acting Deputy Administrator and Director

STATE OF MICHIGAN
APPROVAL OF FEDERAL SECTION 1135 WAIVER REQUESTS

CMS Response: September 21, 2020

To the extent applicable, the following waivers and modifications also apply to CHIP.

HCBS Settings Requirements for Specified Settings

Pursuant to section 1135(b)(1)(B) of the Act, CMS approves a waiver to temporarily allow services provided under the 1915(c) HCBS waiver program, the 1915(i) HCBS State plan benefit, and the Community First Choice State plan option at 1915(k) to be provided in settings that have not been determined to meet the home and community-based settings criteria. This waiver applies to settings that have been added since the March 17, 2014, effective date of the HCBS final regulation (CMS 2249-F/2296-F), to which the HCBS settings criteria currently applies, to accommodate circumstances in which an individual requires relocation to an alternative setting to ensure the continuation of needed home and community-based services.

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

Pursuant to section 1135(b)(1)(C) of the Act, CMS is granting authority to permit the state to temporarily waive written consent required under home and community based service programs under 42 C.F.R. § 441.301(c)(2)(ix) for 1915(c) waiver programs, 42 C.F.R. § 441.725(b)(9) for 1915(i) HCBS state plan programs, and 42 C.F.R. § 441.540(b)(9) for 1915(k) Community First Choice programs that require person-centered service plans receive written consent from beneficiaries and be signed by beneficiaries and all providers responsible for its implementation and permit documented verbal consent as an alternate.

Clinic Facility Requirement

Pursuant to section 1135(b)(1)(B) of the Act, CMS approves a waiver modifying 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).

Duration of Approved Waivers

Unless otherwise specified above, the section 1135 waivers described herein are effective March 1, 2020 and will terminate upon termination of the public health emergency, including any

extensions. In no case will any of these waivers extend past the last day of the public health emergency (or any extension thereof).

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



April 6, 2020

Robert Gordon
Director
Department of Health and Human Services
Capitol View Building, 7th Floor
201 Townsend Street
Lansing, Michigan 48913

Re: Section 1135 Flexibilities Requested in April 1, 2020 Communication

Dear Mr. Gordon:

On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency by the authorities vested in him by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.), and consistent with section 1135 of the Social Security Act (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act as a result of the consequences of the COVID-19 pandemic, to the extent necessary, as determined by the Centers for Medicare & Medicaid Services (CMS), to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and section 1135 waivers will no longer be available, upon termination of the public health emergency, including any extensions.

Your communication to CMS on April 1, 2020, detailed a number of federal Medicaid, the Children's Health Insurance Program (CHIP), and Medicare, requirements that pose issues or challenges for the health care delivery system in all counties in Michigan and requested a waiver or modification of those requirements. Attached, please find a response to your requests for waivers or modifications, pursuant to section 1135 of the Social Security Act, to address the challenges posed by COVID-19. This approval addresses those requests related to Medicaid and CHIP.

To streamline the section 1135 waiver request and approval process, CMS has issued a number of blanket waivers for many Medicare provisions, which primarily affect requirements for individual facilities, such as hospitals, long term care facilities, home health agencies, and so on. Waiver or modification of these provisions does not require individualized approval, and, therefore, these authorities are not addressed in this letter. Please refer to the current blanket waiver issued by CMS that can be found at <https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>.

CMS continues to work on the additional waiver or modification requests that are not currently reflected in the attached approval. For those waiver or modification requests that require approval under authority other than section 1135, such as under applicable regulations, through an amendment to the state plan, or through a section 1115 demonstration, my staff will continue to work with your team to review and make determinations regarding approval as quickly as possible.

Please contact Jackie Glaze, Deputy Director, Medicaid and CHIP Operations Group, at (404) 387-0121 or by email at Jackie.Glaze@cms.hhs.gov if you have any questions or need additional information. We appreciate the efforts of you and your staff in responding to the needs of the residents of the State of Michigan and the health care community.

Sincerely,

A handwritten signature in black ink, appearing to read "Calder Lynch", with a stylized flourish at the end.

Calder Lynch
Deputy Administrator and Director

STATE OF MICHIGAN
APPROVAL OF FEDERAL SECTION 1135 WAIVER REQUESTS

CMS Response: April 6, 2020

Temporarily suspend Medicaid fee-for-service prior authorization requirements. Section 1135(b)(1)(C) allows for a waiver or modification of pre-approval requirements, including prior authorization processes required under the State Plan for particular benefits.

Prior authorization and medical necessity processes in fee-for-service delivery systems are established, defined and administered at state/territory discretion and may vary depending on the benefit. See 42 C.F.R. §440.230(d). The State of Michigan may have indicated in its approved state plan specific requirements about prior authorization processes for benefits administered through the fee-for-service delivery system. We interpret prior authorization requirements to be a type of pre-approval requirement for which waiver and modification authority under section 1135(b)(1)(C) of the Act is available.

Extend pre-existing authorizations for which a beneficiary has previously received prior authorization through the end of the public health emergency.

If prior authorization processes are outlined in Michigan's state plan for particular benefits, CMS is using the flexibilities afforded under section 1135(b)(1)(C) of the Act that allow for waiver or modification of pre-approval requirements to permit services approved to be provided on or after March 1, 2020, to continue to be provided without a requirement for a new or renewed prior authorization, through the termination of the public health emergency, including any extensions (up to the last day of the emergency period under section 1135(e) of the Act), for beneficiaries with a permanent residence in the geographic area of the public health emergency declared by the Secretary.

Provider Enrollment

Michigan currently has the authority to rely upon provider screening that is performed by other State Medicaid Agencies (SMAs) and/or Medicare. As a result, Michigan is authorized to provisionally, temporarily enroll providers who are enrolled with another SMA or Medicare for the duration of the public health emergency.

Under current CMS policy, as explained in the Medicaid Provider Enrollment Compendium (7/24/18), at pg. 42, <https://www.medicaid.gov/affordable-care-act/downloads/program-integrity/mpec-7242018.pdf>, Michigan may reimburse otherwise payable claims from out-of-state providers not enrolled in Michigan Medicaid program if the following criteria are met:

1. The item or service is furnished by an institutional provider, individual practitioner, or pharmacy at an out-of-state/territory practice location– i.e., located outside the geographical boundaries of the reimbursing state/territory's Medicaid plan,
2. The National Provider Identifier (NPI) of the furnishing provider is represented on the

- claim,
3. The furnishing provider is enrolled and in an “approved” status in Medicare or in another state/territory’s Medicaid plan,
 4. The claim represents services furnished, and;
 5. The claim represents either:
 - a. A single instance of care furnished over a 180-day period, or
 - b. Multiple instances of care furnished to a single participant, over a 180-day period

For claims for services provided to Medicaid participants enrolled with Michigan Medicaid program, CMS will waive the fifth criterion listed above under section 1135(b)(1) of the Act. Therefore, for the duration of the public health emergency, Michigan may reimburse out-of-state providers for multiple instances of care to multiple participants, so long as the other criteria listed above are met.

If a certified provider is enrolled in Medicare or with a state Medicaid program other than Michigan, Michigan may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.

With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

1. Payment of the application fee - 42 C.F.R. §455.460
2. Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434
3. Site visits - 42 C.F.R. §455.432
4. In-state/territory licensure requirements - 42 C.F.R. §455.412

CMS is granting this waiver authority to allow Michigan to enroll providers who are not currently enrolled with another SMA or Medicare so long as the state meets the following minimum requirements:

1. Must collect minimum data requirements in order to file and process claims, including, but not limited to NPI.
2. Must collect Social Security Number, Employer Identification Number, and Taxpayer Identification Number (SSN/EIN/TIN), as applicable, in order to perform the following screening requirements:
 - a. OIG exclusion list
 - b. State licensure – provider must be licensed, and legally authorized to practice or deliver the services for which they file claims, in at least one state/territory
3. Michigan must also:
 - a. Issue no new temporary provisional enrollments after the date that the emergency designation is lifted,
 - b. Cease payment to providers who are temporarily enrolled within six months from

the termination of the public health emergency, including any extensions, unless a provider has submitted an application that meets all requirements for Medicaid participation and that application was subsequently reviewed and approved by Michigan before the end of the six month period after the termination of the public health emergency, including any extensions, and

- c. Allow a retroactive effective date for provisional temporary enrollments that is no earlier than March 1, 2020.

Under section 1135(b)(1)(B), CMS is also approving Michigan's request to temporarily cease revalidation of providers who are located in Michigan or are otherwise directly impacted by the emergency.

These provider enrollment emergency relief efforts also apply to the Children's Health Insurance Program (CHIP) to the extent applicable.

Provision of Services in Alternative Settings

CMS approves a waiver under section 1135(b)(1) of the Act to allow facilities, including NFs, intermediate care facilities for individuals with intellectual and developmental disabilities (ICF/IDDs), psychiatric residential treatment facilities (PRTFs), and hospital NFs, to be fully reimbursed for services rendered to an unlicensed facility (during an emergency evacuation or due to other need to relocate residents where the placing facility continues to render services) provided that the State makes a reasonable assessment that the facility meets minimum standards, consistent with reasonable expectations in the context of the current public health emergency, to ensure the health, safety and comfort of beneficiaries and staff. The placing facility would be responsible for determining how to reimburse the unlicensed facility. This arrangement would only be effective for the duration of the section 1135 waiver.

State Plan Amendment Flexibilities: Submission Deadline, Public Notice, and Tribal Consultation

The State of Michigan also requested a modification of the requirement to submit SPAs related to the COVID-19 emergency by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 C.F.R. §430.20. CMS is approving this request pursuant to section 1135(b)(5) of the Act. This approval applies only with respect to SPAs that provide or increase beneficiary access to items and services related to COVID-19 (such as cost sharing waivers, payment rate increases, or amendments to alternative benefit plans (ABPs) to add services or providers) and that would not restrict or limit payment or services or otherwise burden beneficiaries and providers, and that are temporary, with a specified sunset date that is not later than the last day of the declared COVID-19 emergency (or any extension thereof).

The State of Michigan also requested a waiver of public notice requirements applicable to the state plan amendment (SPA) submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42 C.F.R. §440.386 for

changes to ABPs. These requirements help to ensure that the affected public has reasonable opportunity to comment on these SPAs.

CMS recognizes that during this public health emergency, Michigan must act expeditiously to protect and serve the general public. Therefore, under section 1135(b)(1)(C) and 1135(b)(5) of the Act, CMS is approving the state's request to waive these notice requirements applicable to SPA submissions. This approval applies only with respect to SPAs that provide or increase beneficiary access to items and services related to COVID-19 (such as cost sharing waivers, payment rate increases, or amendments to ABPs to add services or providers) and that would not restrict or limit payment or services or otherwise burden beneficiaries and providers, and that are temporary, with a specified sunset date that is not later than the last day of the declared COVID-19 emergency (or any extension thereof). Even though CMS is approving this waiver, we encourage the state to make all relevant information available to the public so they are aware of the changes.

Under section 1135(b)(5) of the Act, CMS is also approving the State of Michigan's request for flexibility to modify the timeframes associated with tribal consultation required under section 1902(a)(73) of the Act, including shortening the number of days before submission or conducting consultation after submission of the SPA. Again, this approval applies only with respect to SPAs that provide or increase beneficiary access to items and services related to COVID-19 (such as cost sharing waivers, payment rate increases, or amendments to ABPs to add services or providers) and that would not restrict or limit payment or services or otherwise burden beneficiaries and providers, and that are temporary, with a specified sunset date that is not later than the last day of the declared COVID-19 emergency (or any extension thereof).

Duration of Approved Waivers

Unless otherwise specified above, the section 1135 waivers described herein are effective March 1, 2020 and will terminate upon termination of the public health emergency, including any extensions. In no case will any of these waivers extend past the last day of the public health emergency (or any extension thereof).



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LANSING

GRETCHEN WHITMER
GOVERNOR

ROBERT GORDON
DIRECTOR

April 1, 2020

Ms. Jackie Glaze
Acting Director
Medicaid and CHIP Operations Group Center
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Request for Waivers Under Section 1135 of the Social Security Act

Dear Ms. Glaze:

The State of Michigan urgently requests that the Centers for Medicare & Medicaid Services (CMS) waive select federal healthcare laws and regulations, as outlined in the attached document, in response to the outbreak of the coronavirus disease 2019 (COVID-19).

On January 31, 2020, the Secretary of the US Department of Health and Human Services declared a nationwide public health emergency under Section 319 of the Public Health Service Act. Subsequent to that, President Trump declared a national emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. These declarations provide CMS the authority to grant waivers to the State under Section 1135 of the Social Security Act. To bolster the federal response, Michigan Governor Gretchen Whitmer declared a state of emergency to maximize efforts and control the spread of COVID-19. Governor Whitmer has also issued several executive orders and directives to increase access to essential health care services and operations. Despite the decisive action, the number of individuals testing positive for COVID-19 has grown at an alarming rate. The Michigan Department of Health and Human Services (MDHHS) is seeking waiver flexibilities under Section 1135 that will allow it to better support statewide action.

The attached list represents Michigan's initial requested flexibilities under the Section 1135 authority in connection with the COVID-19 outbreak and emergency. These waivers will grant Michigan the flexibility to fully address the health needs of Medicaid beneficiaries during this crisis. Additional policies and guidance will be issued by the State to explicitly address the application of these waivers and ensure the granted flexibilities achieve their targeted intent. Using its permitted authority and discretion, Michigan may modify, manage, or provide clarification to limit any unintended consequences that arise. Because circumstances surrounding this emergency are dynamic and fluid, Michigan may subsequently request the approval of additional flexibilities as the situation evolves.

Ms. Jackie Glaze
April 1, 2020
Page 2

I am submitting these waiver requests on behalf MDHHS, which includes the Medical Services Administration, the single State agency for Medicaid in Michigan, and the Behavioral Health and Developmental Disabilities Administration, Michigan's single State authority for mental health and substance use disorders, which provides operational oversight to Michigan's specialty behavioral health Medicaid benefit. This request also incorporates feedback from key health care stakeholders with whom the State is working closely with to address the COVID-19 public health emergency.

Thank you in advance for your swift attention to this critical matter and please contact me immediately if additional information is required.

Sincerely,

A handwritten signature in cursive script that reads "Robert Gordon".

Robert Gordon
Director

RG:drr

Enclosures

cc: James G. Scott, Director
Ruth A. Hughes, Deputy Director
Nicole McKnight, Branch Manager
Keri Toback, State Lead

**Section 1135 Waiver COVID-19
State/Territory Request Template**

Introduction

On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency by the authorities vested in him by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and consistent with section 1135 of the Social Security Act (Act). On the same day, pursuant to section 1135 of the Act, the Secretary of the United States Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act to mitigate the consequences of the COVID-19 pandemic, to the extent necessary, as determined by the Centers for Medicare & Medicaid Services (CMS), to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of 6PM Eastern Daylight Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and waivers will no longer be available, upon termination of the public health emergency, including any extensions.

States/territories can request approval that certain statutes and implementing regulations be waived by CMS, pursuant to section 1135 of the Act. The following list includes some of the temporary flexibilities available to CMS under section 1135 of the Act. Please check the box on the flexibilities that the state/territory is requesting. Please include any additional flexibilities that the state/territory is requesting under the section 1135 waiver authority under “Number 6 – Other Section 1135 Waiver Flexibilities”.

Please complete the following fields:

State/Territory Name: Michigan

Contact Name: Kate Massey

**Contact Title and Agency: Senior Deputy Director, Medical Services Administration
Michigan Department of Health and Human Services**

Email: MasseyK4@michigan.gov

Phone: (517) 241-7882

Date Submitted: 4/1/2020

1) Medicaid Authorizations:

- Suspend Medicaid fee-for-service prior authorization requirements. Section 1135(b)(1)(C) allows for a waiver or modification of pre-approval requirements if prior authorization processes are outlined in detail in the State Plan for particular benefits
- Require fee-for-service providers to extend pre-existing authorizations through which a beneficiary has previously received prior authorization through the termination of the emergency declaration

(Note: Michigan Medicaid policy will provide detail on which prior authorization requirements are suspended and/or extended)

2) Long Term Services and Supports

- Suspend pre-admission screening and annual resident review (PASRR) Level I and Level II Assessments for 30 days
- Extend minimum data set authorizations for nursing facility and skilled nursing facility (SNF) residents

3) Fair Hearings

- Allow managed care enrollees to proceed almost immediately to a state fair hearing without having a managed care plan resolve the appeal first by permitting the state to modify the timeline for managed care plans to resolve appeals to one day so the impacted appeals satisfy the exhaustion requirements
- Give enrollees more than 120 days (if a managed care appeal) or more than 90 days (if an eligibility for fee-for-service appeal) to request a state fair hearing by permitting extensions of the deadline for filing those appeals by a set number of days (e.g., an additional 120 days)

4) Provider Enrollment

- Waive payment of application fee to temporarily enroll a provider
- Waive criminal background checks associated with temporarily enrolling providers
- Waive site visits to temporarily enroll a provider
- Permit providers located out-of-state/territory to provide care to an emergency State's Medicaid enrollee and be reimbursed for that service
- Streamline provider enrollment requirements when enrolling providers

- Postpone deadlines for revalidation of providers who are located in the state or otherwise directly impacted by the emergency
- Waive requirements that physicians and other health care professionals be licensed in the state in which they are providing services, so long as they have equivalent licensing in another state
- Waive conditions of participation or conditions for coverage for existing providers for facilities for providing services in alternative settings, including using an unlicensed facility, if the provider's licensed facility has been evacuated

(Note: Michigan Medicaid policy will provide detail on which provider enrollment requirements are amended)

5) Reporting and Oversight

- Modify deadlines for OASIS and Minimum Data Set (MDS) assessments and transmission
- Suspend 2-week aide supervision requirement by a registered nurse for home health agencies
- Suspend supervision of hospice aides by a registered nurse every 14 days' requirement for hospice agencies

6) Other Section 1135 Waiver Flexibilities. Please include any additional flexibilities that the state/territory is requesting under the Section 1135 waiver authority:

Suspend Face to Face Interactions:

- The State of Michigan is requesting that providers be allowed to use telephonic, telemedicine and video technology commonly available on smart phones for program functions that require in-person communication- so long as they meet CMS and Office of Civil Rights (OCR) guidance and the beneficiary or legal representative consents to the method. This includes initial assessments, re-assessments, Nursing Facility Level of Care Determinations, care planning meetings, home visits, case management, and provider assessment and monitoring, medication therapy management, as well as for durable medical equipment (DME) and medical supplies. In lieu of the required written consent or beneficiary signatures, verbal permission may be obtained and must be documented. Required written consent or signatures must be obtained at the next in-person opportunity.
- The State of Michigan is requesting the authority to provide FQHCs, RHCs, and Tribal 638 Clinics with greater flexibility as specified under this telehealth policy. Waiver of requirement for Tribal 638 clinics that services be provided within the clinic four walls except for homeless populations per 42 C.F.R. §440.90 to allow for screening and testing away from patient areas and allow for services to homebound and others.

Allow telephonic as part of telehealth:

The State of Michigan is requesting that telephonic (audio) only be allowed as part of a telehealth/telemedicine service delivery method.

Waive quantity limits for DME, medical supplies, and pharmacy:

The State of Michigan is requesting to waive quantity limits.

Options for the Use of NF Beds:

The State of Michigan is requesting that nursing facilities be allowed use any or all of the following options:

- Medicaid residents may be placed in a Medicare-certified bed without submitting a request for Medicaid bed certification.
- Nursing facilities with a non-available bed plan may use those beds without prior approval. The non-available bed plan will be negated effective the date any of the non-available beds were used.
- Resident rooms that were converted for other purposes can be re-converted to resident use.
- A single room can be converted to a semi-private room if it is large enough to allow for proper care procedures.
- If a facility determines that the most effective way to control the spread of the virus is to group residents who test positive or isolate residents, the facility may move residents independent of the distinct part requirements.

Hospital Transfers and Non-Emergency Ambulance Transports:

- The State of Michigan is requesting that hospitals be allowed to transfer beneficiaries to lower acuity facilities in an effort to free hospital resources for incoming COVID-19 cases. Hospitals wishing to initiate a transfer to another facility must continue to obtain a Prior Authorization.
- The State of Michigan is requesting that interfacility hospital transfers to lower acuity facilities via ambulance transports be allowed in an effort to free hospital resources for incoming COVID-19 cases.

Suspending Scope of Practice Laws, Allowing Qualified Physician Assistants, Nurses to Treat COVID-19 patients:

The State of Michigan is requesting that scope of practice, supervision, and delegation, be temporarily suspended, in whole or part, to the extent necessary to allow licensed, registered, or certified health care professionals to provide, within a designated health care facility at which the professional is employed or contracted to work, medical services that are necessary to support the facility's response to the COVID-19 pandemic and are appropriate to the professional's education, training, and experience, as determined by the facility in consultation with the facility's medical leadership.

Provision of Services in Alternative Settings

The State of Michigan is requesting authority to fully reimburse facilities for services rendered in an alternative setting, including an unlicensed facility, due to the public health emergency.

Person Centered Services Plans

The State of Michigan would like to extend pre-existing person-centered services plans and their amendments through the termination of the emergency declaration.

State Plan Amendment and Waiver Flexibilities: Submission Deadline, Public Notice, and Tribal Consultation:

- The State of Michigan is requesting a modification of the requirement to submit SPAs related to the COVID-19 emergency by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 C.F.R. §430.20.
- The State of Michigan is also requesting a waiver of public notice requirements applicable to the state plan amendment (SPA) and waiver submission process.
- The State of Michigan is also requesting flexibility to modify the timeframes associated with tribal consultation required under section 1902(a)(73) of the Act, including shortening the number of days before submission or conducting consultation after submission of the SPA or waiver.

These emergency relief efforts also apply to the Children's Health Insurance Program (CHIP) to the extent applicable.

These emergency relief efforts apply to both fee for service and managed care.