Section 7 – General Provisions

7.4. Medicaid Disaster Relief for the COVID-19 National Emergency

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 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 waivers will no longer be available, upon termination of the public health emergency, including any extensions.

The State Medicaid agency (agency) seeks to implement the policies and procedures described below, which are different than the policies and procedures otherwise applied under the Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof), or for any shorter period described below:

New Mexico will apply a rate increase to non-hospital providers for E&M codes and non-E&M codes, as well as an increase to Medicaid only procedure codes for April 1, 2020 through June 30, 2020.

NOTE: States may not elect a period longer than the Presidential or Secretarial emergency declaration (or any renewal thereof). States may not propose changes on this template that restrict or limit payment, services, or eligibility, or otherwise burden beneficiaries and providers.

Request for Waivers under Section 1135

X The agency seeks the following under section 1135(b)(1)(C) and/or section 1135(b)(5) of the Act:

a. SPA submission requirements – the agency requests modification of the requirement to submit the SPA by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 CFR 430.20.

b. Public notice requirements – the agency requests waiver of public notice requirements that would otherwise be applicable to this SPA submission. These
requirements may include those specified in 42 CFR 440.386 (Alternative Benefit Plans), 42 CFR 447.57(c) (premiums and cost sharing), and 42 CFR 447.205 (public notice of changes in statewide methods and standards for setting payment rates).

c. ___X___ Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in New Mexico Medicaid state plan, as described below:

New Mexico plans to modify the tribal consultation timelines by issuing formal notice to New Mexico’s Indian Nations, Tribes, Pueblos and their health care providers for an opportunity to request a tribal consultation from mid-June through mid-July 2020.

Section A – Eligibility

1. _____ The agency furnishes medical assistance to the following optional groups of individuals described in section 1902(a)(10)(A)(i)(XXIII) and 1902(ss) of the Act providing coverage for uninsured individuals.

2. _____ The agency furnishes medical assistance to the following populations of individuals described in section 1902(a)(10)(A)(ii)(XX) of the Act and 42 CFR 435.218:

   a. _____ All individuals who are described in section 1905(a)(10)(A)(ii)(XX)

      Income standard: ____________

      -or-

   b. _____ Individuals described in the following categorical populations in section 1905(a) of the Act:

      Income standard: ____________

3. _____ The agency applies less restrictive financial methodologies to individuals excepted from financial methodologies based on modified adjusted gross income (MAGI) as follows.

   Less restrictive income methodologies:
Less restrictive resource methodologies:

4. _____ The agency considers individuals who are evacuated from the state, who leave the state for medical reasons related to the disaster or public health emergency, or who are otherwise absent from the state due to the disaster or public health emergency and who intend to return to the state, to continue to be residents of the state under 42 CFR 435.403(j)(3).

5. _____ The agency provides Medicaid coverage to the following individuals living in the state, who are non-residents:

6. _____ The agency provides for an extension of the reasonable opportunity period for non-citizens declaring to be in a satisfactory immigration status, if the non-citizen is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency is unable to complete the verification process within the 90-day reasonable opportunity period due to the disaster or public health emergency.

Section B – Enrollment

1. _____ The agency elects to allow hospitals to make presumptive eligibility determinations for the following additional state plan populations, or for populations in an approved section 1115 demonstration, in accordance with section 1902(a)(47)(B) of the Act and 42 CFR 435.1110, provided that the agency has determined that the hospital is capable of making such determinations.

2. _____ The agency designates itself as a qualified entity for purposes of making presumptive eligibility determinations described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Subpart L.

TN: 20-0013  Approval Date: __________
Supersedes TN: NEW  Effective Date: 4/1/2020
3. _____ The agency designates the following entities as qualified entities for purposes of making presumptive eligibility determinations or adds additional populations as described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Subpart L. Indicate if any designated entities are permitted to make presumptive eligibility determinations only for specified populations.

4. _____ The agency adopts a total of _____ months (not to exceed 12 months) continuous eligibility for children under age enter age _____ (not to exceed age 19) regardless of changes in circumstances in accordance with section 1902(e)(12) of the Act and 42 CFR 435.926.

5. _____ The agency conducts redeterminations of eligibility for individuals excepted from MAGI-based financial methodologies under 42 CFR 435.603(j) once every _____ months (not to exceed 12 months) in accordance with 42 CFR 435.916(b).

6. _____ The agency uses the following simplified application(s) to support enrollment in affected areas or for affected individuals (a copy of the simplified application(s) has been submitted to CMS).

   a. _____ The agency uses a simplified paper application.

   b. _____ The agency uses a simplified online application.

   c. _____ The simplified paper or online application is made available for use in call-centers or other telephone applications in affected areas.

Section C – Premiums and Cost Sharing

1. _____ The agency suspends deductibles, copayments, coinsurance, and other cost sharing charges as follows:

Please describe whether the state suspends all cost sharing or suspends only specified deductibles, copayments, coinsurance, or other cost sharing charges for specified items and services or for specified eligibility groups consistent with 42 CFR 447.52(d) or for specified income levels consistent with 42 CFR 447.52(g).

TN: 20-0013 Approval Date: 
Supersedes TN: NEW Effective Date: 4/1/2020

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State/Territory: New Mexico

2. _____ The agency suspends enrollment fees, premiums and similar charges for:
   a. _____ All beneficiaries
   b. _____ The following eligibility groups or categorical populations:

   Please list the applicable eligibility groups or populations.

3. _____ The agency allows waiver of payment of the enrollment fee, premiums and similar charges for undue hardship.

   Please specify the standard(s) and/or criteria that the state will use to determine undue hardship.

Section D – Benefits

Benefits:

1. _____ The agency adds the following optional benefits in its state plan (include service descriptions, provider qualifications, and limitations on amount, duration or scope of the benefit):

2. _____ The agency makes the following adjustments to benefits currently covered in the state plan:

3. _____ The agency assures that newly added benefits or adjustments to benefits comply with all applicable statutory requirements, including the statewideness requirements found at 1902(a)(1), comparability requirements found at 1902(a)(10)(B), and free choice of provider requirements found at 1902(a)(23).

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4. Application to Alternative Benefit Plans (ABP). The state adheres to all ABP provisions in 42 CFR Part 440, Subpart C. This section only applies to states that have an approved ABP(s).

   a. The agency assures that these newly added and/or adjusted benefits will be made available to individuals receiving services under ABPs.

   b. Individuals receiving services under ABPs will not receive these newly added and/or adjusted benefits, or will only receive the following subset:

      Please describe.

5. The agency utilizes telehealth in the following manner, which may be different than outlined in the state’s approved state plan:

      Please describe.

6. The agency makes the following adjustments to the day supply or quantity limit for covered outpatient drugs. The agency should only make this modification if its current state plan pages have limits on the amount of medication dispensed.

      Please describe the change in days or quantities that are allowed for the emergency period and for which drugs.

7. Prior authorization for medications is expanded by automatic renewal without clinical review, or time/quantity extensions.

8. The agency makes the following payment adjustment to the professional dispensing fee when additional costs are incurred by the providers for delivery. States will need to supply documentation to justify the additional fees.

      Please describe the manner in which professional dispensing fees are adjusted.
9. _____ The agency makes exceptions to their published Preferred Drug List if drug shortages occur. This would include options for covering a brand name drug product that is a multi-source drug if a generic drug option is not available.

Section E – Payments

Optional benefits described in Section D:

1. _____ Newly added benefits described in Section D are paid using the following methodology:
   a. ___ Published fee schedules –
      
      Effective date (enter date of change): ______________
      
      Location (list published location): ______________
   
   b. ___ Other:
      
      Describe methodology here.

Increases to state plan payment methodologies:

2. _____ The agency increases payment rates for the following services:

   New Mexico will apply a rate increase to non-hospital providers for E&M codes and non-E&M codes, to a minimum of 6.81 percent and not exceed 98 percent of the Medicare fee schedule. An average 6.81 percent rate increase will be applied for Medicaid only procedure codes.

   a. _____ Payment increases are targeted based on the following criteria:

   b. Payments are increased through:

      i. _____ A supplemental payment or add-on within applicable upper payment limits:
ii. _X__ An increase to rates as described below.

Rates are increased:

_____ Uniformly by the following percentage:

_____ Through a modification to published fee schedules –

Effective date (enter date of change): ____________

Location (list published location): ____________

_X__ Up to the Medicare payments for equivalent services.

_____ By the following factors:

Please describe.

Payment for services delivered via telehealth:

3. _____ For the duration of the emergency, the state authorizes payments for telehealth services that:

   a. ____ Are not otherwise paid under the Medicaid state plan;
   
   b. ____ Differ from payments for the same services when provided face to face;
   
   c. ____ Differ from current state plan provisions governing reimbursement for telehealth;

   Describe telehealth payment variation.

   d. ____ Include payment for ancillary costs associated with the delivery of covered services via telehealth, (if applicable), as follows:

   

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Approval Date: ____________

Effective Date: 4/1/2020
State/Territory: New Mexico

i. Ancillary cost associated with the originating site for telehealth is incorporated into fee-for-service rates.

ii. Ancillary cost associated with the originating site for telehealth is separately reimbursed as an administrative cost by the state when a Medicaid service is delivered.

Other:

4. Other payment changes:

Section F – Post-Eligibility Treatment of Income

1. The state elects to modify the basic personal needs allowance for institutionalized individuals. The basic personal needs allowance is equal to one of the following amounts:
   a. The individual’s total income
   b. 300 percent of the SSI federal benefit rate
   c. Other reasonable amount: ____________

2. The state elects a new variance to the basic personal needs allowance. (Note: Election of this option is not dependent on a state electing the option described the option in F.1. above.) The state protects amounts exceeding the basic personal needs allowance for individuals who have the following greater personal needs:

   Please describe the group or groups of individuals with greater needs and the amount(s) protected for each group or groups.

Section G – Other Policies and Procedures Differing from Approved Medicaid State Plan /Additional Information

TN: 20-0013  Approval Date: ____________
Supersedes TN: NEW  Effective Date: 4/1/2020
PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148 (Expires 03/31/2021). The time required to complete this information collection is estimated to average 1 to 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. Your response is required to receive a waiver under Section 1135 of the Social Security Act. All responses are public and will be made available on the CMS web site. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850. ***CMS Disclosure*** Please do not send applications, claims, payments, medical records or any documents containing sensitive information to the PRA Reports Clearance Office. Please note that any correspondence not pertaining to the information collection burden approved under the associated OMB control number listed on this form will not be reviewed, forwarded, or retained. If you have questions or concerns regarding where to submit your documents, please contact the Centers for Medicaid & CHIP Services at 410-786-3870.

State/Territory: New Mexico

TN: 20-0013
Supersedes TN: NEW
Approval Date: __________________________
Effective Date: 4/1/2020
**TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL**

**FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

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**1. TRANSMITTAL NUMBER**

20013

**2. STATE**

New Mexico

**3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)**

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**TO: REGIONAL ADMINISTRATOR**

CENTERS FOR MEDICARE & MEDICAID SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

**4. PROPOSED EFFECTIVE DATE**

April 1, 2020

**5. TYPE OF PLAN MATERIAL (Check One)**

- [ ] NEW STATE PLAN
- [ ] AMENDMENT TO BE CONSIDERED AS NEW PLAN
- [X] AMENDMENT

**COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)**

**6. FEDERAL STATUTE/REGULATION CITATION**

42 CFR 447 Subpart F

**7. FEDERAL BUDGET IMPACT**

a. FFY 20 $1,712,815.00

b. FFY 21 $0

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**8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT**

Section 7 – General Provisions, 7.4. Medicaid Disaster Relief for the COVID-19 National Emergency, Pages 139-148

**9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)**

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**10. SUBJECT OF AMENDMENT**

Medicaid Disaster Relief #7

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**11. GOVERNOR’S REVIEW (Check One)**

- [ ] GOVERNOR’S OFFICE REPORTED NO COMMENT
- [ ] COMMENTS OF GOVERNOR’S OFFICE ENCLOSED
- [X] OTHER, AS SPECIFIED

**12. SIGNATURE OF STATE AGENCY OFFICIAL**

Nicole Comeaux, J.D., M.P.H., Director

Medical Assistance Division

P.O. Box 2348

Santa Fe, NM 87504-2348

**13. TYPED NAME**

Nicole Comeaux

**14. TITLE**

Director, Medical Assistance Division

**15. DATE SUBMITTED**

September 18, 2020

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**FOR REGIONAL OFFICE USE ONLY**

**16. RETURN TO**

Nicole Comeaux, J.D., M.P.H., Director

Medical Assistance Division

P.O. Box 2348

Santa Fe, NM 87504-2348

**17. DATE RECEIVED**

**18. DATE APPROVED**

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**PLAN APPROVED - ONE COPY ATTACHED**

**19. EFFECTIVE DATE OF APPROVED MATERIAL**

**20. SIGNATURE OF REGIONAL OFFICIAL**

**21. TYPED NAME**

**22. TITLE**

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**23. REMARKS**

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*Instructions on Back*
Standard Funding Questions

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in Attachment 4.19-B of this SPA. For SPAs that provide for changes to payments for clinic or outpatient hospital services or for enhanced or supplemental payments to physician or other practitioners, the questions must be answered for all payments made under the state plan for such service.

1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the payments, a complete listing of providers that return a portion of their payments, the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)

STATE RESPONSE: Providers are not required to return any portion of payments for these services.

2. Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either through an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local governmental entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:
   (i) a complete list of the names of entities transferring or certifying funds;
   (ii) the operational nature of the entity (state, county, city, other);
(iii) the total amounts transferred or certified by each entity;
(iv) clarify whether the certifying or transferring entity has general taxing
authority: and,
(v) whether the certifying or transferring entity received appropriations
(identify level of appropriations).

STATE RESPONSE: These services are paid using appropriations from the
state legislature from funds received by broad-based taxes levied by the state.

3. Section 1902(a)(30) requires that payments for services be consistent with
efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal
financial participation to States for expenditures for services under an approved
State plan. If supplemental or enhanced payments are made, please provide the
total amount for each type of supplemental or enhanced payment made to each
provider type.

STATE RESPONSE: A supplemental payment is made to the state teaching
hospital, the University of New Mexico Hospital, for practitioner services as
described in the state plan on Attachment 4.19-B Page 1.

4. For clinic or outpatient hospital services please provide a detailed description of
the methodology used by the state to estimate the upper payment limit (UPL) for
each class of providers (State owned or operated, non-state government owned or
operated, and privately owned or operated). Please provide a current (i.e.,
applicable to the current rate year) UPL demonstration.

STATE RESPONSE: These fee schedule changes do not apply to any
provider subject to the UPL calculations.

5. Does any governmental provider receive payments that in the aggregate (normal
per diem, supplemental, enhanced, other) exceed their reasonable costs of
providing services? If payments exceed the cost of services, do you recoup the
excess and return the Federal share of the excess to CMS on the quarterly
expenditure report?

STATE RESPONSE: If governmental providers were to receive payments
that exceed their reasonable cost of providing services, the excess payment
would be recovered and the federal share of the excess would be reported
and returned to CMS.