

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

Date: March 18, 2020

Re: State of New Hampshire's Federal Section 1135 Waiver Requests

Dear Ms. Glaze:

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, the New Hampshire Governor Christopher T. Sununu also declared a state of emergency due to the Novel Coronavirus (COVID-19).

The President's declaration gives the Secretary of the U.S. Department of Health and Human Services the authority to enhance states' abilities to respond to the COVID-19 outbreak, including the power to temporarily waive or modify Medicaid and Children's Health Insurance Program (CHIP) requirements under Section 1135 of the Social Security Act.

The State of New Hampshire requests the following flexibilities under a federal section 1135 Waiver to ensure that sufficient health care items and services are available to meet the needs of the State during the emergency declaration. New Hampshire further requests that the requested flexibilities apply to all counties in the State consistent with the President's national emergency declaration.

1. Temporarily suspend prior authorization (PA) requirements, including fee-for-service. New Hampshire respectfully requests a blanket waiver be issued to waive all PA requirements, including PA requirements for hospital services, durable medical equipment, home health services, and in-home physician visits.
2. Temporarily extend prior authorizations. New Hampshire respectfully requests that fee-for-service providers be required to extend prior authorizations through the termination of the health emergency declaration for State Plan, EPSDT, and the 1915(i) waivers.

3. Waiver of Pre-Admission Screening and Annual Resident Review (PASRR) Level I and Level II Assessment Requirements. New Hampshire respectfully requests a blanket waiver be issued to waive the requirement for completing PASRR assessments.
4. Waiver of pre-admission and annual screenings for nursing home residents. New Hampshire respectfully requests a blanket waiver be issued to temporarily suspend requirements for certain pre-admission and annual screenings for nursing home residents during the health emergency declaration.
5. Provision of services in alternative non-traditional settings. New Hampshire respectfully requests a blanket waiver to allow facilities to provide, and bill for, services in alternative settings, such as mobile testing sites, temporary shelters, or other non-traditional care facilities.
6. Waiver of licensure requirements for additional bed capacity. New Hampshire respectfully requests a blanket waiver from all licensure requirements for hospitals or nursing homes requesting increases in their certified bed capacity.
7. Waiver of limitations on alternative screening locations. New Hampshire respectfully requests a blanket waiver from any limitations for facilities to provide screening/triage/testing of patients at locations offsite from facility campuses, including drive-through testing/triage/screening sites.
8. Temporarily waive licensure requirements for providers. New Hampshire respectfully requests a blanket waiver from professional licensure requirements for out-of-state physicians and other health care providers permitting such providers to provide services to the State's Medicaid enrollees, during the health emergency declaration, so long as they have equivalent professional licensing in another state.
9. Temporarily waive provider enrollment requirements. New Hampshire respectfully requests a blanket waiver to allow the State to waive the following screening requirements to temporarily enroll providers:
 - Payment of application fee
 - Criminal background checks
 - Site visits
10. Provide flexibility to temporarily delay scheduling of Medicaid Fair Hearings and issuing Fair Hearing decisions during the emergency period. New Hampshire respectfully requests a blanket waiver be issued to temporarily delay aspects of the Medicaid Fair Hearing process.
11. Temporarily suspend application of EMTALA sanctions. New Hampshire respectfully requests a blanket waiver from the application of EMTALA sanctions for the redirection of an individual to receive a medical screening examination in an alternative location or transfer of an individual who has not been stabilized if the transfer is necessitated by the circumstances of the health emergency declaration. As an example, a hospital ER does not perform a Medical

Screening Exam and transfers a patient under the exigent circumstances of the hospital being over capacity and under staffed because of COVID19 and facing a shortage of ventilators. The waiver would mean the hospital would not face sanction for this action. Hospitals invoking an EMTALA waiver must have provided notice to the State survey agency headed by Christine Holtz.

Additionally, New Hampshire will shortly be submitting State Plan Amendments for its 1915(i) and other State Plan services as well as changes for New Hampshire's four 1915 (c) Home and Community Based Services (HCBS) waivers.

Thank you for your consideration of this urgent request.

Very Truly Yours,

/s/Henry D. Lipman

Henry D. Lipman, FACHE
Medicaid Director
New Hampshire Department of Health and Human Services

cc.: Lori A. Shibinette, Commissioner
Melissa A. St. Cyr, Chief Legal Officer
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