



January 19, 2021

Jami Snyder
Director
Arizona Health Care Cost Containment System
801 East Jefferson Street
Phoenix, Arizona 85034

Dear Ms. Snyder:

On March 13, 2020, the President of the United States issued a proclamation that the Coronavirus Disease 2019 (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 (the Act) as amended (42 U.S.C. 1320b-5). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary 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 6:00 PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. We note that the emergency period will terminate, upon termination of the public health emergency (PHE), including any extensions.

In response to the section 1115(a) demonstration opportunity announced to states on March 22, 2020, in State Medicaid Director Letter (SMDL) #20-002,¹ on April 17, 2020, Arizona submitted a request for an amendment to the “Arizona Health Care Cost Containment System (AHCCCS)” section 1115(a) demonstration (Project Number 11-W-00275/9) to address the COVID-19 PHE. CMS has determined that the state’s application is complete, consistent with the exemptions and flexibilities outlined in 42 CFR 431.416(e)(2) and 431.416(g).² CMS

¹ See SMDL #20-002, “COVID-19 Public Health Emergency Section 1115(a) Opportunity for States,” available at <https://www.medicare.gov/sites/default/files/Federal-Policy-Guidance/Downloads/smd20002-1115template.docx>.

² Pursuant to 42 CFR 431.416(g), CMS has determined that the existence of unforeseen circumstances resulting from the COVID-19 PHE warrants an exception to the normal state and federal public notice procedures to expedite

expects that states will offer, in good faith and in a prudent manner, a post-submission public notice process, including tribal consultation as applicable, to the extent circumstances permit. This letter serves as a time-limited approval of one the state's requests, which will be approved as an amendment under the AHCCCS demonstration and which is hereby authorized retroactively from March 1, 2020, through the date that is 60 days after the end of the PHE (including any renewal of the PHE).

CMS has determined that the COVID-19 PHE amendment to the AHCCCS demonstration – including the expenditure authority detailed below and in Attachment M – is necessary to assist the state in delivering the most effective care to its beneficiaries in light of the COVID-19 PHE. The demonstration amendment is likely to assist in promoting the objectives of the Medicaid statute because it is expected to help the state furnish medical assistance in a manner intended to protect, to the greatest extent possible, the health, safety, and welfare of individuals and providers who may be affected by COVID-19. As dental offices in Arizona have either been closed or operating at limited capacity during the COVID-19 PHE, the state Medicaid agency officials expressed concern that, due to the COVID-19 pandemic, some beneficiaries who were eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services may have foregone routine dental care or dental care authorized prior to turning age 21 on or after March 1, 2020, and no longer remain eligible for EPSDT services. This expenditure authority will enable such beneficiaries to receive this foregone dental care, especially as most adult dental care services, excluding emergency services, are otherwise unavailable under Arizona Medicaid state plan.

In addition, in light of the unprecedented emergency circumstances associated with the COVID-19 pandemic and consistent with the President's declaration detailed above – and in consequence of the time-limited nature of this demonstration amendment – CMS did not require the state to submit budget neutrality calculations for this COVID-19 PHE amendment to the AHCCCS demonstration. In general, CMS has determined that the costs to the federal government are likely to have been otherwise incurred and allowable. Arizona will still be required to track demonstration expenditures and will be expected to evaluate the connection between those expenditures and the state's response to the PHE, as well as the cost-effectiveness of those expenditures. Due to the highly limited scope of the changes under the amendment, CMS is incorporating this amendment as Attachment M to the AHCCCS special terms and conditions (STC).

Request CMS is Approving at this Time

a decision on a proposed COVID-19 section 1115 demonstration or amendment. States applying for a COVID-19 section 1115 demonstration or amendment are not required to conduct a public notice and input process. CMS is also exercising its discretionary authority to expedite its normal review and approval processes to render timely decisions on state applications for COVID-19 section 1115 demonstrations or amendments. CMS will post all section 1115 demonstrations approved under this COVID-19 demonstration opportunity on the Medicaid.gov website.

This letter only addresses the request that CMS is approving at this time. CMS is approving the expenditure authority, as described below, starting March 1, 2020, and ending 60 days after the termination of the PHE:

Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Dental Services.

Expenditures to cover routine EPSDT dental services³ and EPSDT dental services authorized prior to a beneficiary turning age 21 for those beneficiaries who turned 21 on or after March 1, 2020, and through 60 days after the termination of the COVID-19 PHE and who remain Medicaid eligible.

Monitoring and Evaluation Requirements

The state must submit an evaluation design to CMS within 60 days of the demonstration amendment approval. CMS will provide guidance on an evaluation design specifically for the expenditure authority approved for the COVID-19 emergency, including any amendments. The state is required to post its evaluation design to the state's website within 30 days of CMS approval of the evaluation design, per 42 CFR 431.424(e).

The state will test whether and how the approved expenditure authority affects the state's response to the PHE. To that end, the state will use research questions that pertain to the approved expenditure authority. The evaluation will also assess cost-effectiveness by tracking administrative costs and health services expenditures for demonstration beneficiaries and assessing how these outlays affected the state's response to the PHE.

The state is required to submit a final report. The final report will consolidate monitoring and evaluation reporting requirements for this demonstration authority. The state must submit this final report no later than one year after the end of the COVID-19 section 1115 demonstration authority. The final report will capture data on the demonstration implementation, lessons learned, and best practices for similar situations. The state will be required to track separately all expenditures associated with this demonstration, including but not limited to, administrative costs and program expenditures. CMS will provide additional guidance on the structure and content of the final report. Should the approval period of this demonstration authority exceed one year, for each year of the demonstration that the state is required to complete per the annual report required under 42 CFR 431.428(a), the state may submit that information in the Final Report.

Approval of this demonstration amendment is subject to the limitations specified in the approved expenditure authority and the enclosed Attachment M to the STCs. The state may deviate from its Medicaid state plan requirements only to the extent specific in the approved expenditure authority and the enclosed STCs for the demonstration. This approval is conditioned upon continued compliance with the previously approved STCs, which set forth in detail the nature, character, and extent of anticipated federal involvement in the project.

³ See generally sections 1902(a)(43), 1905(a)(4)(B), and 1905(r) of the Act and 42 CFR 441.50-441.62. See also sections 1905(r)(1) (screening services, including dental), 1905(r)(3) (dental services), and 1905(r)(5) (other section 1905(a) services) of the Act; 42 CFR 441.56(b)(1)(vi) (dental screening); 42 CFR 441.56(c)(2) (dental diagnosis and treatment).

The award is subject to CMS receiving written acceptance of this award within 15 days of the date of this approval letter. Your project officer is Ms. Kelsey Smyth. Ms. Smyth is available to answer any questions concerning implementation of the state's section 1115(a) demonstration amendment and her contact information is as follows:

Centers for Medicare & Medicaid Services
Center for Medicaid and CHIP Services
Mail Stop S2-25-26
7500 Security Boulevard
Baltimore, Maryland 21244-1850
Email: Kelsey.Smyth@cms.hhs.gov

We appreciate your state's commitment to addressing the significant challenges posed by the COVID-19 pandemic, and we look forward to our continued partnership on the AHCCCS section 1115(a) demonstration. If you have any questions regarding this approval, please contact Ms. Teresa DeCaro, Acting Director, State Demonstrations Group, Center for Medicaid and CHIP Services, at (410) 786-9686.

Sincerely,



Anne Marie Costello
Acting Deputy Administrator and Director

Enclosure

cc: Brian Zolynas, State Monitoring Lead, Medicaid and CHIP Operations Group

Attachment M
**Time-limited Expenditure Authority and Associated Requirements for the COVID-19
Public Health Emergency (PHE) Demonstration Amendment**

Expenditure Authority

Under the authority of section 1115(a)(2) of the Social Security Act (the Act), expenditures made by the state for the items identified below, which are not otherwise included as expenditures under section 1903 of the Act shall, for the period from March 1, 2020, through the date that is sixty (60) days after the PHE described in section 1135(g)(1)(B) of the Act, including any extension, expires, unless otherwise specified, be regarded as expenditures under the state's title XIX plan.

1. Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Dental Services.

Expenditures to cover routine EPSDT dental services⁴ and EPSDT dental services authorized prior to a beneficiary turning age 21 for those beneficiaries who turned 21 on or after March 1, 2020 and through 60 days after the termination of the COVID-19 PHE and who remain Medicaid eligible.

Monitoring and Evaluation Requirements

- 1. Evaluation Design.** The state must submit an evaluation design to CMS within 60 days of the demonstration amendment approval. CMS will provide guidance on an evaluation design specifically for the expenditure authorities approved for the COVID-19 emergency, including any amendments. The state is required to post its evaluation design to the state's website within 30 days of CMS approval of the evaluation design, per 42 CFR 431.424(e). The state will test whether and how the approved expenditure authorities affect the state's response to the public health emergency. To that end, the state will use research questions that pertain to the approved expenditure authorities. The evaluation will also assess cost-effectiveness by tracking administrative costs and health services expenditures for demonstration beneficiaries and assessing how these outlays affected the state's response to the public health emergency.
- 2. Final Report.** The state is required to submit a final report. The final report will consolidate monitoring and evaluation reporting requirements for this demonstration authority. The state must submit this final report no later than one year after the end of the COVID-19 section 1115 demonstration authority. The final report will capture data on the demonstration implementation, lessons learned, and best practices for similar situations. The state will be required to track separately all expenditures associated with this demonstration, including but not limited to, administrative costs and program expenditures. CMS will provide additional guidance on the structure and content of the final report. Should the approval period of these demonstration authorities exceed one year, for each year of the demonstration that the state is required to complete per the annual report required under 42 CFR 431.428(a), the state may submit that information in the Final Report.

⁴ See generally sections 1902(a)(43), 1905(a)(4)(B), and 1905(r) of the Act and 42 CFR 441.50-441.62. See also sections 1905(r)(1) (screening services, including dental), 1905(r)(3) (dental services), and 1905(r)(5) (other section 1905(a) services) of the Act; 42 CFR 441.56(b)(1)(vi) (dental screening); 42 CFR 441.56(c)(2) (dental diagnosis and treatment).

- 3. Tracking Demonstration Amendment Expenditures.** The state is required to track demonstration amendment expenditures and is expected to evaluate the connection between those expenditures and the state's response to the PHE, as well as the cost-effectiveness of those expenditures.