



All-State Medicaid and CHIP Call May 31, 2022



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Agenda

- Update on Ukraine Supplemental Appropriations Act
- Medicaid State Plan Amendment Options:
Temporary State Plan Provisions
Post-Public Health Emergency
- Unwinding FAQs
- Open Mic Q and A

Additional Ukraine Supplemental Appropriations Act, 2022

H.R. 7691, P.L. No: 117-128

(enacted on May 21, 2022)

SEC. 401. (a) **IN GENERAL.**—Notwithstanding any other provision of law, a citizen or national of Ukraine (or a person who last habitually resided in Ukraine) shall be eligible for the benefits described in subsection (b) if—

(1) such individual completed security and law enforcement background checks to the satisfaction of the Secretary of Homeland Security and was subsequently—

(A) paroled into the United States between February 24, 2022 and September 30, 2023; or

(B) paroled into the United States after September 30, 2023 and—

(i) is the spouse or child of an individual described in subparagraph (A); or

(ii) is the parent, legal guardian, or primary caregiver of an individual described in subparagraph (A) who is determined to be an unaccompanied child under section 462(g)(2) of the Homeland Security Act of 2002 ([6 U.S.C. 279\(g\)\(2\)](#)) or section 412(d)(2)(B) of the Immigration and Nationality Act ([8 U.S.C. 1522\(d\)\(2\)\(B\)](#)); and

(2) such individual's parole has not been terminated by the Secretary of Homeland Security.

(b) **BENEFITS.**—An individual described in subsection (a) shall be eligible for—

(1) resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of the Immigration and Nationality Act ([8 U.S.C. 1157](#)) to the same extent as such refugees, but shall not be eligible for the program of initial resettlement authorized by section 412(b)(1) of the Immigration and Nationality Act ([8 U.S.C. 1522\(b\)\(1\)](#)); and

Medicaid State Plan Amendment Options



*Temporary State
Plan Provisions
Post-Public Health
Emergency*

May 31, 2022

Options for Disaster Relief SPA Provisions

As states plan for the end of the PHE, states should determine if:

Disaster Relief SPA provisions are no longer needed post-PHE and will sunset.

Disaster Relief SPA provisions are needed post-PHE for a limited amount of time and the state wishes to extend temporarily.

Disaster Relief SPA provisions are needed post-PHE and the state wishes to extend them indefinitely.

Extending Disaster Relief SPA Provisions Temporarily

States have three options for temporarily extending Medicaid state plan provisions post-PHE:

1. Approved Disaster Relief SPA provisions the state would like to temporarily extend without modifications
2. Approved Disaster Relief SPA provisions the state would like to temporarily extend with modifications
3. Additional provisions states would like to implement temporarily to aid in the return to routine operations (not previously approved in a Disaster Relief SPA).

Temporary Medicaid State Plan Provisions: Process and Requirements

CMS is introducing new sub-sections within the General Provisions Section 7.4 of the Medicaid state plan for time-limited provisions that will extend beyond the end date of the PHE.

SPAs extending PHE flexibilities are subject to SPA submission requirements, where applicable, including:

- ✓ *Effective date*
- ✓ *Public notice*
- ✓ *Tribal consultation*



Section 1135 Waivers cannot be approved or extended after the end date of the PHE.

Medicaid SPA for Temporarily Extending Disaster Relief SPA Provisions without Modifications

- States should establish a new Medicaid state plan sub-section:

Section 7.4.B., “Temporary Extension to the Disaster Relief Policies for the COVID-19 National Emergency”

- This sub-section will directly follow Disaster Relief SPAs in Section 7.4 and any Disaster Relief SPA Rescissions in Section 7.4.A.

Medicaid SPA for Temporarily Extending Disaster Relief SPA Provisions without Modifications

- CMS has developed a streamlined submission and review process for these SPAs
- Begin the section with the following language:

“Effective the day after the end of the PHE until _____, the agency temporarily extends the following election(s) in section 7.4 (approved on XX/XX/XXXX in SPA Number XX-XX-XXXX) of the state plan.”
- Cut and paste the approved Disaster Relief SPA provisions onto the blank page using the sample language above; and
- Include the proposed expiration date for each provision (or group of provisions).



If the state intends to have the provision(s) in place for longer than one year, CMS recommends submitting these changes in the applicable state plan sections.

Temporary Extension to the Disaster Relief Policies for the COVID-19 National Emergency

7.4.B. Temporary Extension to the Disaster Relief Policies for the COVID-19 National Emergency

Effective the day after the end of the PHE until XX/XX/XXXX, the agency temporarily extends the following election(s) of section 7.4 (approved on XX/XX/XXXX in SPA Number XX-XX-XXXX) of the state plan:

Benefits:

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

[Cut and paste the approved Disaster Relief SPA provision]

Premium and Cost Sharing:

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).

[Cut and paste the approved Disaster Relief SPA provisions]

Sample:

Section 7.4.B
Temporary
Extension of
Medicaid Disaster
Relief SPA
Provisions (Without
Modifications)

Streamlined Process for Temporarily Extending Medicaid Disaster Relief SPA Provisions without Modifications

CMS will rely on the policy review conducted as part of the initial approval and anticipates review of these SPAs will be handled in an expedited manner as the review will consist of:

- Confirming the language is exactly the same as the approved Disaster Relief SPA provision;
- Reviewing to ensure state included a sunset date for all provisions;
- Assuring compliance with state plan SPA submission requirements (submission date, public notice, and tribal consultation requirements); and
- Confirming for ABP alignment states that the SPA includes an assurance that the extension applies to the ABP as well (similar to the assurance in the Disaster Relief template).

Medicaid SPAs for Temporarily Extending Disaster Relief SPA Provisions with Modifications and/or Adding New Temporary Provisions

- States should establish another new Medicaid state plan sub-section:
Section 7.4.C., “Temporary Policies in effect following the COVID-19 National Emergency”
- This sub-section may include:
 - Modifications to provisions already in an approved Disaster Relief SPA
 - Additional post-PHE changes not already approved in a Disaster Relief SPA
- These submissions will follow the same CMS review process as non-Disaster Relief/traditional SPA submissions.



If states wish to make more restrictive changes or changes that will be in place for more than 12 months, CMS recommends that this be done in the applicable section of the state plan.

Medicaid Section 7.4.C. – Modifications to Provisions Already in an Approved Disaster Relief SPA

- Use the following introductory language:

“Effective the day after the end of the PHE until _____, the agency temporarily extends the following election(s) of section 7.4 (approved on XX/XX/XXXX in SPA Number XX-XX-XXXX) of the state plan, with modifications.”
- Cut and paste the approved Disaster Relief SPA provisions, incorporating the requested modifications; and
- Include the proposed expiration date for each provision (or group of provisions).

Medicaid Section 7.4.C. – Additional Post-PHE Changes Not Already Approved in a Disaster Relief SPA

- For clarity, CMS recommends this option only be used for provisions states want to temporarily add that meet the following criteria:
 - ✓ Provisions are directly related to the state’s COVID-19 PHE unwinding efforts; and
 - ✓ Provisions differ from what is currently approved in a Disaster Relief SPA.
- Use the following introductory language: “Effective the day after the end of the PHE until _____, the agency temporarily implements the following changes to the state plan:”

Temporary Policies in Effect Following the COVID-19 National Emergency

Sample:

Section 7.4.C

- Temporary Extension of Medicaid SPA Disaster Relief Provisions (with modifications)
- New Medicaid Unwinding Provisions

7.4.C Temporary Policies in Effect Following the COVID-19 National Emergency

Effective the day after the end of the PHE until XX/XX/XXXX, the agency temporarily extends the following election(s) of section 7.4 (approved on XX/XX/XXXX in SPA Number XX-XX-XXXX) of the state plan, with modifications:

Payment:

The agency increases payment rates for the following services:

a. Payments are increased through:

i. An Increase to rates as described below:

1. By the following factors:

[Cut and paste the approved Disaster Relief SPA provisions with modification]

Effective the day after the end of the PHE until XX/XX/XXXX, the agency temporarily implements the following change to the state plan:

Post-Eligibility Treatment of Income:

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:

The individual's total income

Indefinitely Extend Provisions Approved in a Disaster Relief SPA

States may submit a regular SPA before the end date of the PHE is known for making Disaster Relief SPA provisions part of the state plan indefinitely:

- The state should submit the SPA with a requested effective date of “the day after the PHE ends”. (MACPro requires a specific effective date, so CMS will work with the state to establish a workaround if needed.)
- CMS will review the SPA following all the normal processes and timelines.
- Once the SPA is ready for approval, CMS will issue the approval package with the effective date identified as “the day after the PHE ends” (or using a workaround if MACPro is used).
- The approval letter will contain language indicating the SPA is not effective until the day after the PHE expires.
- Once the end date of the PHE is known, all SPAs approved in this manner will be reissued with a technical correction adding the specific effective date of the day after the PHE ends. This will be a CMS administrative action with no action required by the state.



As required in 42 CFR § 441.745(a)(2)(v), Home and Community Based Services 1915(i) SPAs establishing a new benefit or proposing substantive changes to an existing benefit must be approved with a prospective effective date.

Resources

[February 15, 2022 All-State Call Presentation](#): Original presentation on extending Medicaid flexibilities beyond the end of the PHE – Temporarily or Indefinitely

[May 11, 2021 All-State Call Presentation](#): Information on rescinding or ending early provisions of an approved Disaster Relief SPA and options for Making provisions approved in a Disaster Relief SPA indefinite

[June 16, 2020 All-State Call Presentation](#): Additional information on federal requirements for retaining Medicaid state plan flexibilities

State Unwinding Q&As

1902(e)(14) Waivers:

1. **1902(e)(14) Waiver - “Zero Income”:** What is the policy for verifying income when an individual attests to zero income at application?

Reasonable Opportunity Period Requirements:

1. **1115 Demonstration Authority:** Can CMS provide additional information on the COVID-19 1115 demonstration authority to extend the reasonable opportunity period for individuals attesting to U.S. citizenship?
2. **Extending ROP Period:** Can a state use COVID-19 1115 demonstration authority to extend an ROP period for individuals who have attested to U.S. citizenship to allow the state to align their renewals and other eligibility actions across the unwinding period and continue to verify citizenship in accordance with the state's unwinding plan?

State Unwinding Q&As (cont'd)

Reasonable Opportunity Period (cont'd):

- 3. Duration of 1115 Authority:** If a state were to opt to use COVID-19 1115 demonstration authority to extend its ROP to continue to verify U.S. citizenship for those who have attested to citizenship, to align renewals and eligibility actions (as previously described), how long would the 1115 demonstration authority last?
- 4. Timeframe for Submission of 1115 Waiver:** By when must a state submit a COVID-19 1115 demonstration to extend an ROP for individuals who have attested to U.S. citizenship?

Questions
