

**STATE OF RHODE ISLAND  
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**

**3/25/2020 PUBLIC NOTICE OF RHODE ISLAND COVID-19 SECTION 1135 WAIVER  
AMENDMENT REQUEST**

In accordance Rhode Island General Laws 42-35, notice is hereby given that the Rhode Island Executive Office of Health and Human Services (EOHHS) has submitted to the Centers for Medicare and Medicaid Services (CMS) its request to amend the Section 1135 Waiver in response to the novel Coronavirus Disease (COVID-19) effective March 1, 2020.

**COVID-19 Section 1135 Waiver Amendment Request**

When the President declares a disaster or emergency under the Stafford Act or National Emergencies Act and the HHS Secretary declares a public health emergency under Section 319 of the Public Health Service Act, the Secretary is authorized to take certain actions in addition to their regular authorities. Under section 1135 of the Social Security Act, the Secretary may temporarily waive or modify certain Medicaid or Children's Health Insurance Program (CHIP) requirements to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in Social Security Act programs in the emergency area and time periods and that providers who provide such services in good faith can be reimbursed and exempted from sanctions (absent any determination of fraud or abuse). These waivers under section 1135 of the Social Security Act typically end no later than the termination of the emergency period, or 60 days from the date the waiver or modification is first published unless the Secretary of HHS extends the waiver by notice for additional periods of up to 60 days, up to the end of the emergency period.

Ensuring access to care for Rhode Island Medicaid members is critical in responding to COVID-19. Due to the need for social distancing, EOHHS anticipates operating its Medicaid program with reduced staffing levels. Additionally, visitors to nursing homes are no longer being allowed in Rhode Island, meaning that elderly individuals do not have family assistance. EOHHS submitted a request to implement a new Section 1135 Waiver Demonstration in response to COVID-19 on March 16, 2020. EOHHS has submitted an amendment to the 1135 Waiver request, which re-states the pending requests and adds new requested authorities as well.

The goal of the waiver request is to ensure that Medicaid members continue to receive medically necessary Medicaid-covered services while minimizing exposure to the virus. The existing RI Comprehensive 1115 Demonstration Waiver ("Demonstration"), will remain in force unless described in this emergency 1135 request.

EOHHS has requested the following flexibilities:

- Pursuant to 42 CFR 435.912(e)(2), Rhode Island requests concurrence from CMS with EOHHS' intent to postpone the processing of annual Medicaid eligibility renewals for all Medicaid members that are scheduled to occur during the novel COVID-19 declaration of emergency, and postpone taking action on Medicaid eligibility determinations due to changes in circumstances affecting an individual's Medicaid eligibility for sixty (60) days or until the termination of the novel COVID-19 declaration of emergency, whichever is longer (3/16/20 request);

- Temporary suspension of most of the prior authorization requirements for Medicaid covered services until the termination of the novel COVID-19 emergency declaration (3/16/20 request);
- Extension of all prior authorizations that are currently in place until fifteen (15) days following the termination of the novel COVID-19 emergency declaration (3/16/20 request);
- Permit providers located out of state and/or out of network to enroll as Rhode Island Medicaid providers and provider care to Medicaid members (3/16/20 request);
- A waiver of (1) the application fee to temporarily enroll a provider, as required per 42 CFR 455.460; (2) the requirement to waive criminal background checks before enrolling a provider, as required per 42 CFR 455.434; and (3) the requirement to conduct site visits before enrolling a provider, as required per 42 CFR 455.432 (3/16/20 request);
- 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;
- Streamline provider enrollment requirements when enrolling providers;
- Delay all provider enrollment revalidations, as required per 42 CFR 455.414, that are scheduled to occur during the State of Emergency (3/16/20 request);
- 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;
- Concurrence from CMS with EOHHS' intent to delay scheduling fair hearings and fair hearing decisions for sixty (60) days or until the termination of the novel COVID-19 declaration of emergency, whichever is longer (3/16/20 request);
- Conduct expedited fair hearings under 42 CFR 431.224 by telephone or video conference, whichever is most accessible for the Medicaid member (3/16/20 request);
- 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);
- 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;
- 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; and
- Suspend supervision of hospice aides by a registered nurse every 14 days' requirement for hospice agencies.

### **Public Comment Process**

Given that this request is intended to address an emergency, as declared by the President on March 13, 2020, EOHHS will not be conducting a prior 30-day public notice, nor will public hearings be held. However, written public comments will be accepted.

The waiver request is accessible on the EOHHS website (<http://www.eohhs.ri.gov/ReferenceCenter/MedicaidStatePlanand1115Waiver.aspx>) or available in hard copy upon request (401-462-6348 or RI Relay, dial 711). Interested persons should submit data, views, or written comments by **April 24, 2020** to Melody Lawrence, Executive Office of Health and Human Services, 3 West Rd, Cranston, RI, 02920, or [Melody.Lawrence@ohhs.ri.gov](mailto:Melody.Lawrence@ohhs.ri.gov).

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