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DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

April 13, 2020

To: Tribal Chairpersons, Designees of Indian Health Programs,
and Urban Indian Organizations

Subject: Notice of Proposed Changes to the Medi-Cal Program In Response to the
COVID-19 Public Health Emergency

The purpose of this letter is to provide information regarding proposed changes to the Department of Health Care Services' (DHCS) Medi-Cal Program, which are needed to address the COVID-19 public health emergency.

Please note that the Centers for Medicare and Medicaid Services (CMS) has provided flexibility that allows states to modify tribal notification timeframes, including conducting consultation after submission of Waivers, Demonstration Projects, and State Plan Amendments (SPA) in order to timely modify Medicaid programs to address the COVID-19 emergency. The modified process provides for notification and opportunity to comment within ten days of submission to CMS of proposals related to the COVID-19 emergency. This notice meets DHCS' modified notification process.

DHCS has submitted the following proposal to CMS:

- **DHCS Request for Section 1115 Demonstration Authority Related to the COVID-19 Public Health Emergency:** This proposal seeks to extend Medicaid reimbursement and/or flexibility for targeted providers, delivery systems, and care settings that are particularly affected by the ongoing emergency and essential to California's response to COVID-19. The effective date of the proposed demonstration is March 1, 2020. Please see the enclosed summary for a detailed description of this DHCS proposal.

QUESTIONS AND COMMENTS

Tribes, Indian Health Programs and Urban Indian Organizations may submit written comments or questions concerning this proposal within 10 days from the receipt of notice. Comments may be sent by email to Angeli.Lee@dhcs.ca.gov or by mail to the address below:

Tribal Chairpersons, Designees of Indian Health Programs,
and Urban Indian Organizations

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Angeli Lee

Director's Office Department of Health Care Services

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P.O. Box 997413

Sacramento, CA 95899-7413

Please note that Indian Health Programs and Urban Indian Organizations may also request a telephone consultation on these proposals at any time as needed.

Sincerely,

Original signed by

Sandra "Sam" Willburn, Chief

Primary, Rural, and Indian Health Division

Department of Health Care Services

MS 8502

P.O. Box 997413,

Sacramento, CA 95899-7413

**Department of Health Care Services (DHCS)
Tribal and Designees of Indian Health Programs Notice**

PURPOSE:

To clarify proposed changes to the DHCS Medi-Cal Program which are needed to address the COVID-19 public health emergency.

BACKGROUND

DHCS submitted to the Centers for Medicare & Medicaid Services (CMS) a request for a [demonstration amendment under Section 1115](#) of the Social Security Act on April 3, 2020. CMS has allowed states flexibility on tribal and public notice requirements as a result of the declared public health emergency. Therefore, DHCS is notifying tribes and designees of Indian health programs following the submission of the 1115 demonstration proposal in order to ensure CMS can expeditiously review these important COVID-19 related flexibilities.

SUMMARY OF PROPOSED CHANGES

DHCS requested approval under Section 1115 of the Social Security Act for the below summarized flexibilities related to the ongoing COVID-19 public health emergency. This submission is made pursuant to [State Medicaid Directors Letter no. 20-002](#) (“COVID-19 Public Health Emergency Section 1115(a) Opportunity for States”).

In developing this proposal, DHCS prioritized those flexibilities geared towards maintaining safe and sufficient beneficiary access to covered services in the current emergent circumstances, by maximizing capacity in hospitals and other appropriate health care settings. DHCS’ proposal seeks to extend Medicaid reimbursement and/or flexibility for targeted providers, delivery systems, and care settings that are particularly affected by the public health emergency and essential to California’s response to COVID-19. The proposed authorities would apply within DHCS’ preexisting Medi-Cal delivery systems and programs approved under the California State Plan and waivers thereof, including the [Medi-Cal 2020 Section 1115 demonstration](#).

The Section 1115 demonstration request includes the following proposals:

- Reimbursement for COVID-19 testing and treatment inside jails and prisons for Medi-Cal eligible inmates.

Impact: DHCS does not anticipate any impact as a result of this proposal for tribal health programs or Federally Qualified Health Centers (FQHCs). To the extent that an American Indian is incarcerated, and is Medi-Cal eligible, they would have access to Medi-Cal covered COVID-19 testing and treatment under this proposal.

- Waiver of the 16-bed limitation applicable to certain Institutions for Mental Disease (IMD) in order to maximize bed capacity during the emergency. California proposes to cover certain expenditures on behalf of Medi-Cal beneficiaries under 65 years of age that are patients in IMDs during the COVID-19 emergency. California also proposes this flexibility to extend to situations where a hospital repurposes psychiatric beds in response to COVID-19 and temporarily delivers IMD care in appropriate alternative settings.

Impact: DHCS does not anticipate any impact as a result of this proposal for tribal health programs or FQHCs. American Indian Medi-Cal beneficiaries may have greater access to mental health services and placement in IMDs as a result of this proposal.

- Extend coverage of COVID-19 treatment to the optional uninsured coverage group under [Section 1902\(a\)\(10\)\(A\)\(ii\)\(XXIII\)](#) at the 100 percent Federal Medical Assistance Percentage (FMAP) rate provided in [HR 6201](#) (to coincide with California’s proposed [State Plan Amendment 20-0024](#) electing to cover this optional eligibility group).

Impact: Tribal health programs and FQHCs will be able to provide care and seek reimbursement for COVID-19 treatment for individuals in the optional uninsured coverage group. This coverage group includes individuals not otherwise eligible for full-scope Medi-Cal and for individuals not enrolled in group, individual, or other public coverage. American Indians in this category may have increased access to COVID-19 treatment services as a result of this proposal. California will also be eligible to receive 100 percent FMAP for treatment services provided to individuals in this coverage group.

- California proposes to deem COVID-19 testing and treatment services outside of an emergency room as “emergency services” or services for an “emergency medical condition” for all enrolled Medi-Cal beneficiaries, regardless of their scope of coverage or documentation status. Emergency inpatient or outpatient medical services are covered benefits for all enrolled Medi-Cal beneficiaries, including enrolled undocumented beneficiaries, when necessary to treat an emergency medical condition in both the fee-for-service and managed care delivery systems. For purposes of emergency services, this would also allow Medi-Cal beneficiaries enrolled in a managed care plan to receive COVID-19 testing and treatment on an out-of-network basis and allow for plan payments to affected providers.

Impact: Tribal health programs and FQHCs will be able to seek reimbursement for COVID-19 testing and treatment as “emergency services” or provided to Medi-Cal beneficiaries enrolled for only restricted scope coverage. Additionally, clinics may see an increase in reimbursable visits from Medi-Cal managed care beneficiaries who would not ordinarily be eligible to seek care from out-of-network providers for COVID-19 testing and treatment. To the extent that an American Indian is in a

restricted scope of coverage aid code this proposal may increase access to COVID-19 testing and treatment services.

- Reimbursement for temporary, emergency housing within [Whole Person Care \(WPC\)](#) pilots approved pursuant to the [Medi-Cal 2020 Demonstration](#), and flexibility for WPC pilots to modify their budgets for the current Performance Year in response to COVID-19. If approved, counties may develop temporary emergency housing services for WPC enrollees impacted by COVID-19.

Impact: To the extent that a tribal health program or FQHC participate in a WPC pilot, they may be able to receive reimbursement for providing temporary emergency housing. Also, American Indians in WPC participating counties may have access to temporary emergency housing. Eligibility requirements will vary by county, but may include Medi-Cal beneficiaries who have been identified as high users of multiple systems and continue to have poor health outcomes, behavioral health conditions, and/or are homeless or at-risk for homelessness. Beneficiaries must be enrolled in the WPC program to access services. To view a list of participating WPC counties, please visit the [Whole Person Care website](#).

- Waiver of certain utilization limits applicable to the residential treatment benefit provided in approved [Drug Medi-Cal-Organized Delivery System \(DMC-ODS\)](#) pilots under the Medi-Cal 2020 Demonstration.

Impact: DHCS does not anticipate any impact as a result of this proposal for tribal health programs or FQHCs. American Indian Medi-Cal beneficiaries may have increased access to residential treatment benefits in DMC-ODS pilot counties.

- Reimbursement for retainer payments in [Home and Community-Based Services \(HCBS\)](#) programs.

Impact: To the extent that a tribal health program or FQHC participates in HCBS programs they may be eligible for retainer payments. Retainer payments allow the State to continue to pay providers that are providing fewer services during an emergency. For example, day type services, such as Community-Based Adult Services, where individuals spend time in a day setting with other individuals, are shutting down to limit potential exposure to COVID-19. Retainer payments can keep these providers in business so that they exist when the emergency is over. Retainer payments are available only for absences (maximum 30 consecutive days) in excess of the average number of absences experienced by the provider during the 12-month period prior to February 2020.

- Waiver of the interim rate setting methodology for DMC-ODS pilots approved under the Medi-Cal 2020 Demonstration to provide temporary interim reimbursement at the lower of: actual certified county costs or DHCS-approved interim rates increased by 100 percent to remove barrier for interim reimbursement reflecting higher costs. Final reimbursement will be subject to existing final reconciliation processes.

Impact: DHCS does not anticipate any impact as a result of this proposal for tribal health programs, FQHCs, or American Indian Medi-Cal beneficiaries.

- Authority for DHCS and contracted managed care plans, as applicable, to make incentive payments on a pay-for-reporting basis for the January 1, 2020, to June 30, 2020, period within: (1) the [Public Hospital Redesign and Incentives in Medi-Cal \(PRIME\)](#) program under the Medi-Cal 2020 Demonstration; and (2) the [Quality Incentive Pool \(QIP\)](#) directed payment program approved pursuant to [42 C.F.R. §438.6\(c\)](#).

Impact: DHCS does not anticipate any impact as a result of this proposal for tribal health programs, FQHCs, or American Indian Medi-Cal beneficiaries.

The effective date of the proposed demonstration is March 1, 2020. The demonstration is subject to approval by CMS.

RESPONSE DATE

Tribes, Indian Health Programs, and Urban Indian Organizations may also submit written comments or questions concerning this proposal within 10 days from the receipt of notice. Comments may be sent by email to Angeli.Lee@dhcs.ca.gov or by mail to the address below:

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