



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



GAVIN NEWSOM
GOVERNOR

September 23, 2020

Mr. James G. Scott, Director
Division of Program Operations
Medicaid and CHIP Operations Group
Centers for Medicare & Medicaid Services
601 East 12th Street, Suite 0300
Kansas City, MO 64106-2898

STATE PLAN AMENDMENT 20-0038: CFCO RECERTIFICATION OF LEVEL OF CARE REQUIREMENTS

Dear Mr. Scott:

The Department of Health Care Services (DHCS) submits State Plan Amendment (SPA) 20-0038 for your review and approval. This SPA grants DHCS flexibility to waive the annual recertification of the level of care requirement for 1915(k) Community First Choice Option (CFCO) beneficiaries who either have no reasonable expectation of improvement to their medical condition, or are unavailable to participate in a recertification. DHCS seeks an effective date of July 1, 2020.

Under 42 C.F.R. § 441.510(c)(1), DHCS may permanently waive the annual recertification of a CFCO beneficiary who have no reasonable expectation of improvement or significant change in the individual's condition because of the severity of a chronic condition or the degree of impairment of functional capacity. This SPA inserts this language into the State Plan. This SPA also grants DHCS flexibility to extend the time to conduct the annual recertification for CFCO beneficiaries who are unavailable to participate in the recertification.

Enclosed are the following documents:

- CMS 179 form
- Attachment 3.1-K pages – Redline
- Attachment 3.1-K pages – Clean

Neither a public notice nor a tribal notice are required for this SPA.

Mr. James G. Scott
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If you have any questions please contact Mr. Joseph Billingsley, Branch Chief of Program Policy and Operations, Integrated Systems of Care Division by email at Joseph.Billingsley@dhcs.ca.gov.

Sincerely,



Jacey Cooper
Chief Deputy Director
Health Care Programs
State Medicaid Director

Enclosures

cc: Mr. Kirk Davis
Deputy Director
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Mr. Joseph Billingsley
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Mr. Aaron Toyama
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Health Care Programs
Department of Health Care Services
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**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 0 — 0 0 38

2. STATE

California

3. PROGRAM IDENTIFICATION:

Title XIX of the Social Security Act (Medicaid)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

July 1, 2020

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

1915(k) 42 CFR § 441.510

7. FEDERAL BUDGET IMPACT

a. FFY 2020 \$ n/a
b. FFY n/a \$ n/a

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 3.1k pages 1-2

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (*If Applicable*)

Attachment 3.1k pages 1-2

10. SUBJECT OF AMENDMENT

Allow permanent waiver of the annual recertification of level of care requirement in accordance with 441.510(c)(1) & (2) and allow a temporary waiver for other specific situations.

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL

[Redacted Signature]

13. TYPED NAME
Jacey Cooper

14. TITLE
State Medicaid Director

15. DATE SUBMITTED
September 23, 2020

16. RETURN TO

Department of Health Care Services
Attn: Director's Office
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

18. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME

22. TITLE

23. REMARKS

For Box 11 "Other, As Specified," Please note: The Governor's Office does not wish to review the State Plan Amendment.

State Plan Under Title XIX of the Social Security Act
STATE/TERRITORY: CALIFORNIA

Notwithstanding anything else in this State Plan provision, the coverage will be subject to such other requirements that are promulgated by CMS through interpretive issuance or final regulation.

i. Eligibility

The State determines eligibility for CFCO services in the manner as prescribed in Social Security Act §1915(k)(1) and 42 CFR section 441.510. Effective on July 1, 2013, to receive CFCO, an individual must meet the following requirements:

- (a) Be eligible for medical assistance under the State plan;
- (b) As determined annually—
 - (1) Be in an eligibility group under the State plan that includes nursing facility services; or
 - (2) If in an eligibility group under the State plan that does not include such nursing facility services, have an income that is at or below 150 percent of the Federal poverty level (FPL). In determining whether the 150 percent of the FPL requirement is met, the State must apply the same methodologies as would apply under the Medicaid State plan, including the same income disregards in accordance with section 1902(r)(2) of the Act; and,
- (c) Receive a determination, at least annually, that in the absence of the home and community-based attendant services and supports provided under this subpart, the individual would otherwise require the level of care furnished in a hospital, a nursing facility, an intermediate care facility for individuals with intellectual disabilities, an institution providing psychiatric services for individuals under age 21, or an institution for mental diseases for individuals age 65 or over, if the cost could be reimbursed under the State plan.
 - (1) The annual recertification requirement may be permanently waived for an individual if:
 - (A) It is determined that there is no reasonable expectation of improvement or significant change in the individual's condition because of the severity of a chronic condition or the degree of impairment of functional capacity; and
 - (B) The county retains documentation of the reason for permanently waiving the annual recertification requirement.
 - (2) The annual recertification deadline may be extended for six months if:

State Plan Under Title XIX of the Social Security Act

STATE/TERRITORY: CALIFORNIA

- (A) The individual is unavailable to participate in the annual recertification; and
- (B) The county retains documentation of the reason for extending this deadline.

(d) For purposes of meeting the criterion under paragraph (b) of this section, individuals who qualify for medical assistance under the special home and community-based waiver eligibility group defined at section 1902(a)(10)(A)(ii)(VI) of the Act must meet all section 1915(c) requirements and receive at least one home and community-based waiver service per month.

ii. Service Delivery Models

 X Agency Model - The Agency Model is based on the person-centered assessment of need. The Agency Model is a delivery method in which the services and supports are provided by entities under a contract.

 X Self-Directed Model with service budget – This Model is one in which the individual has both a service plan and service budget based on the person-centered assessment of need.

 X Direct Cash

 Vouchers

 X Financial Management Services in accordance with 441.545(b)(1).

Provider qualifications for the self-directed model are designed to ensure necessary safeguards have been taken to protect the health and welfare of participants, including criminal background checks (including finger printing) and an orientation designed to ensure providers are capable of safely providing required services.

Providers convicted of fraud are excluded under the federal regulations as specified in 42 CFR section 1001.101 and those convicted of elder and specified child abuse are also excluded as allowed under federal law pursuant to 42 CFR 1002.2. The recipient may hire their provider of choice regardless of any other felony convictions utilizing the statutory waiver process where applicable.