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State/Territory Name: Louisiana

State Plan Amendment (SPA) #: 20-0009

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



February 22, 2021

Ms. Tara LeBlanc
Interim Medicaid Executive Director
State of Louisiana
Department of Health
628 N 4th St.
P.O. Box 91030
Baton Rouge, LA 70821-9030

Re: Louisiana State Plan Amendment (SPA) 20-0009

Dear Ms. LeBlanc

We have reviewed the proposed amendment to add section 7.4.1 Medicaid Disaster Relief for the COVID-19 National Emergency to your Medicaid state plan, as submitted under transmittal number (TN) 20-0009. This amendment proposes to implement temporary policies, which are different from those policies and procedures otherwise applied under your Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof).

On March 13, 2020, the President of the United States issued a proclamation that the 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 (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department 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 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and this state plan provision will no longer be in effect, upon termination of the public health emergency,

including any extensions.

Pursuant to section 1135(b)(5) of the Act, for the period of the public health emergency, CMS is modifying the requirement at 42 C.F.R. 430.20 that the state submit SPAs related to the COVID-19 public health emergency by the final day of the quarter, to obtain a SPA effective date during the quarter, enabling SPAs submitted after the last day of the quarter to have an effective date in a previous quarter, but no earlier than the effective date of the public health emergency.

The State of Louisiana requested a waiver of public notice requirements applicable to the SPA submission process. Pursuant to section 1135(b)(1)(C) of the Act, CMS is waiving public notice requirements applicable to the SPA submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42 C.F.R. §440.386 for changes to Alternative Benefit Plans (ABPs). Pursuant to section 1135(b)(1)(C) of the Act, CMS is approving the state's request to waive these notice requirements otherwise applicable to SPA submissions.

The State of Louisiana also requested a waiver to modify the tribal consultation timeline applicable to this SPA submission process. Pursuant to section 1135(b)(5) of the Act, CMS is also allowing states to modify the timeframes associated with tribal consultation required under section 1902(a)(73) of the Act, including shortening the number of days before submission or conducting consultation after submission of the SPA.

These waivers or modifications of the requirements related to SPA submission timelines, public notice, and tribal consultation apply only with respect to SPAs that meet the following criteria: (1) the SPA provides or increases beneficiary access to items and services related to COVID-19 (such as by waiving or eliminating cost sharing, increasing payment rates or amending ABPs to add services or providers); (2) the SPA does not restrict or limit payment or services or otherwise burden beneficiaries and providers; and (3) the SPA is temporary, with a specified sunset date that is not later than the last day of the declared COVID-19 public health emergency (or any extension thereof). We nonetheless encourage states to make all relevant information about the SPA available to the public so they are aware of the changes.

We conducted our review of your submittal according to the statutory requirements at section 1902(a) of the Act and implementing regulations. This letter is to inform you that Louisiana's Medicaid SPA Transmittal Number 20-0009 is approved effective March 1, 2020. This SPA is in addition to Disaster Relief SPAs 20-0004 and 20-0006, approved on April 20, 2020 and June 26, 2020, respectively. SPA 20-0009 supersedes 20-0006. Please note that the effective date for the new COVID-19 testing eligibility group described at section 1902(a)(10)(A)(ii)(XXIII) of the Act is March 18, 2020.

Enclosed is a copy of the CMS-179 summary form and the approved state plan pages.


Please contact Tobias Griffin at 214-767-4425 or by email at Tobias.Griffin@cms.hhs.gov if you have any questions about this approval. We appreciate the efforts of you and your staff

in responding to the needs of the residents of the State of Louisiana and the health care community.

Sincerely,

Alissa Mooney DeBoy
On Behalf of Anne Marie Costello, Acting Director
Center for Medicaid and CHIP Services

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER 20-0009	2. STATE Louisiana
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
5. TYPE OF PLAN MATERIAL (Check One) <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT		4. PROPOSED EFFECTIVE DATE March 1, 2020	
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION Section 1135 of the Social Security Act Title XIX of the Social Security Act		7. FEDERAL BUDGET IMPACT a. FFY 2021 \$ 8,620,283 b. FFY 2022 \$ 0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 7 – General Provisions 7.4.1 Medical Disaster Relief for the COVID-19 National Public Health Emergency		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Same (TN 20-0006)	
10. SUBJECT OF AMENDMENT: The purpose of this SPA is to waive or modify certain requirements of Title XIX of the Act to address the COVID-19 public health emergency, in order to provide a one-time lump sum payment to privately owned and operated intermediate care facilities for individuals with intellectual disabilities, and a one-time lump sum payment for Long Term Personal Care Services providers.			
11. GOVERNOR'S REVIEW (Check One) <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED The Governor does not review State Plan material. <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL 		16. RETURN TO Tara A. LeBlanc Interim Executive Medicaid Director State of Louisiana Department of Health 628 North 4th Street P.O. Box 91030 Baton Rouge, LA 70821-9030	
13. TYPED NAME Ruth Johnson, designee for Dr. Courtney N. Phillips			
14. TITLE Secretary			
15. DATE SUBMITTED November 24, 2020			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED November, 24, 2020		18. DATE APPROVED February 22, 2021	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL March 1, 2020		20. SIGNATURE OF REGIONAL OFFICIAL	
21. TYPED NAME Alissa Mooney DeBoy		22. TITLE On Behalf of Anne Marie Costello, Acting Director Center for Medicaid and CHIP Services	
23. REMARKS			

Section 7 – General Provisions**7.4.1 Medicaid Disaster Relief for the COVID-19 National Emergency**

On March 13, 2020, the President of the United States issued a proclamation that the 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 (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department 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 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 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and waivers will no longer be available, upon termination of the public health emergency, including any extensions.

The State Medicaid agency (agency) seeks to implement the policies and procedures described below, which are different than the policies and procedures otherwise applied under the Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof), or for any shorter period described below:

N/A

NOTE: States may not elect a period longer than the Presidential or Secretarial emergency declaration (or any renewal thereof). States may not propose changes on this template that restrict or limit payment, services, or eligibility, or otherwise burden beneficiaries and providers.

Request for Waivers under Section 1135

 X The agency seeks the following under section 1135(b)(1)(C) and/or section 1135(b)(5) of the Act:

- a. X SPA submission requirements – the agency requests modification of the requirement to submit the SPA by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 CFR 430.20.
- b. X Public notice requirements – the agency requests waiver of public notice requirements that would otherwise be applicable to this SPA submission. These requirements may include those specified in 42 CFR 440.386 (Alternative Benefit Plans), 42 CFR 447.57(c) (premiums and cost sharing), and 42 CFR 447.205 (public notice of changes in statewide methods and standards for setting payment rates).

- c. X Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in [Louisiana] Medicaid state plan, as described below:

To address the COVID-19 public health emergency, the State respectfully requests to modify the tribal consultation process by eliminating the number of notification days before submission of the SPA and/or conducting consultation after submission of the SPA.

Section A – Eligibility

1. X The agency furnishes medical assistance to the following optional groups of individuals described in section 1902(a)(10)(A)(ii) or 1902(a)(10)(c) of the Act. This may include the new optional group described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Act providing coverage for uninsured individuals.

The State elects to cover all uninsured individuals as defined under 1902(ss) of the Act pursuant to Section 1902(a)(10)(A)(ii)(XXIII) of the Act, effective March 18, 2020.

2. The agency furnishes medical assistance to the following populations of individuals described in section 1902(a)(10)(A)(ii)(XX) of the Act and 42 CFR 435.218:

- a. All individuals who are described in section 1905(a)(10)(A)(ii)(XX)

Income standard:

-or-

- b. Individuals described in the following categorical populations in section 1905(a) of the Act:

Income standard:

3. The agency applies less restrictive financial methodologies to individuals excepted from financial methodologies based on modified adjusted gross income (MAGI) as follows.

Less restrictive income methodologies:

Less restrictive resource methodologies:

4. X The agency considers individuals who are evacuated from the state, who leave the state for medical reasons related to the disaster or public health emergency, or who are otherwise absent from the state due to the disaster or public health emergency and who intend to return to the state, to continue to be residents of the state under 42 CFR 435.403(j)(3).
5. The agency provides Medicaid coverage to the following individuals living in the state, who are non-residents:

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6. X The agency provides for an extension of the reasonable opportunity period for non-citizens declaring to be in a satisfactory immigration status, if the non-citizen is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency is unable to complete the verification process within the 90-day reasonable opportunity period due to the disaster or public health emergency.

7. Section B – Enrollment

1. The agency elects to allow hospitals to make presumptive eligibility determinations for the following additional state plan populations, or for populations in an approved section 1115 demonstration, in accordance with section 1902(a)(47)(B) of the Act and 42 CFR 435.1110, provided that the agency has determined that the hospital is capable of making such determinations.
2. The agency designates itself as a qualified entity for purposes of making presumptive eligibility determinations described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Subpart L.

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3. The agency designates the following entities as qualified entities for purposes of making presumptive eligibility determinations or adds additional populations as described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Subpart L. Indicate if any designated entities are permitted to make presumptive eligibility determinations only for specified populations.

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4. The agency adopts a total of months (not to exceed 12 months) continuous eligibility for children under age enter age (not to exceed age 19) regardless of changes in circumstances in accordance with section 1902(e)(12) of the Act and 42 CFR 435.926.

5. ____ The agency conducts redeterminations of eligibility for individuals excepted from MAGI-based financial methodologies under 42 CFR 435.603(j) once every ____ months (not to exceed 12 months) in accordance with 42 CFR 435.916(b).
6. ____ The agency uses the following simplified application(s) to support enrollment in affected areas or for affected individuals (a copy of the simplified application(s) has been submitted to CMS).
- a. ____ The agency uses a simplified paper application.
 - b. ____ The agency uses a simplified online application.
 - c. ____ The simplified paper or online application is made available for use in call-centers or other telephone applications in affected areas.

Section C – Premiums and Cost Sharing

1. X The agency suspends deductibles, copayments, coinsurance, and other cost sharing charges as follows:

The State suspends all cost sharing.

2. ____ The agency suspends enrollment fees, premiums and similar charges for:
- a. ____ All beneficiaries
 - b. ____ The following eligibility groups or categorical populations:

N/A

3. ____ The agency allows waiver of payment of the enrollment fee, premiums and similar charges for undue hardship.

Please specify the standard(s) and/or criteria that the state will use to determine undue hardship.

Section D – Benefits*Benefits:*

1. ____ The agency adds the following optional benefits in its state plan (include service descriptions, provider qualifications, and limitations on amount, duration or scope of the benefit):

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

- A. *To address the COVID-19 public health emergency, the State respectfully requests to extend all prior authorization by automatic renewal without clinical review or time/quantity extensions for the duration of the emergency for the following services:*
- i. Any medically necessary surgical procedures that require prior authorization either by fee-for-service, managed care, or both.*
 - ii. Pediatric Day Health Center (PDHC)*
 - iii. physician administered drugs*
 - iv. Durable medical equipment (DME)*
 - v. Home health services (EHH/PCS)*
 - vi. Hospice services*
 - vii. Therapies (physical therapy, occupational therapy, speech therapy)*
- B. *To address the COVID-19 public health emergency for Long Term Personal Care Services (LT-PCS), 42 CFR 440.167, the State respectfully requests the following adjustments for the duration of the emergency:*
- i. Allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and supporting documentation, to authorize hours up to 32 hours per week, if needed;*
 - ii. Allow exceptions for the age, education and experience for the personal care services worker qualifications and allow the following persons to serve as the direct service worker for the recipient: the recipient's curator; the recipient's tutor; the recipient's responsible representative; or the person to whom the recipient has given Representative and Mandate authority (Power of Attorney) unless they are legally responsible relatives;*
 - iii. Allow recipients' re-assessments to go beyond the 18-month requirement. These recipients will continue to be monitored through monthly telephone contacts;*
 - iv. Allow exceptions to the requirement that place(s) of service must be documented in the plan of care;*
 - v. LT-PCS may be provided in another state without prior approval of the Office of Aging and Adult Services (OAAS) or its designee;*
 - vi. A recipient may receive LT-PCS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the recipient;*
 - vii. The State may increase the maximum number of LT-PCS hours received per week; and*
 - viii. The State may allow exceptions to the prior authorization requirements.*
- C. *Pediatric Day Health Care (PDHC) skilled services may be provided in a residential setting during the public health emergency to those children whose families are not able to provide such care due to the public health emergency.*

3. X The agency assures that newly added benefits or adjustments to benefits comply with all applicable statutory requirements, including the statewideness requirements found at 1902(a)(1), comparability requirements found at 1902(a)(10)(B), and free choice of provider requirements found at 1902(a)(23).

4. X Application to Alternative Benefit Plans (ABP). The state adheres to all ABP provisions in 42 CFR Part 440, Subpart C. This section only applies to states that have an approved ABP(s).
- a. X The agency assures that these newly added and/or adjusted benefits will be made available to individuals receiving services under ABPs.
- b. ____ Individuals receiving services under ABPs will not receive these newly added and/or adjusted benefits, or will only receive the following subset:

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Telehealth:

5. X The agency utilizes telehealth in the following manner, which may be different than outlined in the state's approved state plan:

<i>To address the COVID-19 public health emergency, the State respectfully requests to meet face-to-face requirements detailed in the Louisiana State Plan for all services via telehealth for the duration of the emergency.</i>

Drug Benefit:

6. ____ The agency makes the following adjustments to the day supply or quantity limit for covered outpatient drugs. The agency should only make this modification if its current state plan pages have limits on the amount of medication dispensed.

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7. X Prior authorization for medications is expanded by automatic renewal without clinical review, or time/quantity extensions.
8. ____ The agency makes the following payment adjustment to the professional dispensing fee when additional costs are incurred by the providers for delivery. States will need to supply documentation to justify the additional fees.

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9. X The agency makes exceptions to their published Preferred Drug List if drug shortages occur. This would include options for covering a brand name drug product that is a multi-source drug if a generic drug option is not available.

Section E – Payments*Optional benefits described in Section D:*

1. _____ Newly added benefits described in Section D are paid using the following methodology:

- a. _____ Published fee schedules –

Effective date (enter date of change): _____

Location (list published location): _____

- b. _____ Other:

Describe methodology here.

Increases to state plan payment methodologies:

2. X The agency increases payment rates for the following services:

To address the COVID-19 public health emergency, the State respectfully requests to increase the payment for privately owned or operated nursing facility leave of absence days from 10 percent of the per diem to 100 percent of the per diem, and include a \$12 increase to the daily per diem rate paid to privately owned or operated nursing facilities.

State owned or operated and non-state government owned or operated facilities are not eligible for, and will not receive the state or federally declared emergency modification to leave of absence day payments and will not receive the \$12 increase to the daily per diem rate as described above.

To address the COVID-19 public health emergency, the State respectfully requests to pay Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs-IID) beyond the 45-day leave of absence days.

To address the COVID-19 public health emergency, the State respectfully requests to adjust rates in the physician benefit to reimburse ambulance service providers who provide allowable services on site, without transport, while under the supervision of a licensed physician.

- a. _____ Payment increases are targeted based on the following criteria:

Please describe criteria.

- b. Payments are increased through:

- i. X A supplemental payment or add-on within applicable upper payment limits:

\$12 per day add-on to the privately owned or operated nursing facility rate.

- ii. X An increase to rates as described below.

 X Uniformly by the following percentage: *For privately owned and operated nursing facilities, increase rate from 10 percent to 100 percent of the per diem for home and hospital leave days.*

 Through a modification to published fee schedules –

Effective date (enter date of change):

Location (list published location):

 Up to the Medicare payments for equivalent services.

 By the following factors:

Payment for services delivered via telehealth:

3. For the duration of the emergency, the state authorizes payments for telehealth services that:
- a. Are not otherwise paid under the Medicaid state plan;
 - b. Differ from payments for the same services when provided face to face;
 - c. Differ from current state plan provisions governing reimbursement for telehealth;

Describe telehealth payment variation.

- d. Include payment for ancillary costs associated with the delivery of covered services via telehealth, (if applicable), as follows:
- i. Ancillary cost associated with the originating site for telehealth is incorporated into fee-for-service rates.
 - ii. Ancillary cost associated with the originating site for telehealth is separately reimbursed as an administrative cost by the state when a Medicaid service is delivered.

Other:

4. X Other payment changes:

1. To address the COVID-19 public health emergency (PHE), the State respectfully requests to provide a one-time lump sum payment to privately owned and operated intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) (excluding state facilities and non-state governmental owned facilities).

A one-time payment will be made for the current PHE, as follows:

- A. Payment will be made on or before the State's fiscal year ending June 30, 2021 or before the end of the PHE, whichever occurs first and will be based on each provider's specific pro-rated share of an additional dedicated program funding pool totaling \$7,518,096.*
- B. The pro-rated share for each provider will be determined utilizing the provider's percentage of program Medicaid days for dates of service October 1, 2019 through December 31, 2019.*
- C. The additional dedicated program funding pool lump sum payments shall not exceed the Medicare upper payment limit, in the aggregate, for the provider class.*
- D. Unless the facility has timely in-activated their license, through the Health Standards Section, due to calendar year 2020 hurricane damage, the Facility must be open and operating as an ICF/IID at the time of payment.*

2. To address the COVID-19 public health emergency, the State respectfully requests to provide a one-time lump sum payment to long-term personal care services (LT-PCS) providers. The one-time lump sum payment will be made for the current PHE and will be distributed based on each LT-PCS provider's units billed for the dates of services between October 1, 2019 and December 31, 2019.

Section F – Post-Eligibility Treatment of Income

1. 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:
 - a. The individual's total income
 - b. 300 percent of the SSI federal benefit rate
 - c. Other reasonable amount: _____
2. The state elects a new variance to the basic personal needs allowance. (Note: Election of this option is not dependent on a state electing the option described the option in F.1. above.)

The state protects amounts exceeding the basic personal needs allowance for individuals who have the following greater personal needs:

Please describe the group or groups of individuals with greater needs and the amount(s) protected for each group or groups.

Section G – Other Policies and Procedures Differing from Approved Medicaid State Plan /Additional Information

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PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148 (Expires 03/31/2021). The time required to complete this information collection is estimated to average 1 to 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. Your response is required to receive a waiver under Section 1135 of the Social Security Act. All responses are public and will be made available on the CMS web site. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850. ***CMS Disclosure*** Please do not send applications, claims, payments, medical records or any documents containing sensitive information to the PRA Reports Clearance Office. Please note that any correspondence not pertaining to the information collection burden approved under the associated OMB control number listed on this form will not be reviewed, forwarded, or retained. If you have questions or concerns regarding where to submit your documents, please contact the Centers for Medicaid & CHIP Services at 410-786-3870.