

April 5, 2023

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

Re: Louisiana Disaster Relief SPA 23-0001

Dear Mrs. LeBlanc:

The Centers for Medicare & Medicaid Services (CMS) has completed our review of the proposed amendment submitted under transmittal number (TN) LA 23-0001. This Medicaid disaster relief state plan amendment (SPA) was submitted to respond to the COVID-19 public health emergency (PHE). The purpose of this amendment is to increase bonus payments to personal care services and targeted case management providers in order to address the COVID-19 Public Health Emergency (PHE) and in accordance with the State's approved Home and Community Based Services spending plan authorized under Section 9817 of the American Rescue Plan Act and has an effective date of April 1, 2021.

Before CMS can continue processing this amendment, we need additional or clarifying information. The requested information and revisions are needed to satisfy the requirements that Medicaid Disaster Relief SPAs be used only to add or increase coverage, benefits, or payment. CMS requests the following:

Section E – Payments:

1. LA 23-0001 replaces “direct support worker” with “case manager”. Please confirm that the revised SPA language is synonymous with the original approved language in terms of eligible payees. Will ANY payee that is eligible to receive payment under approved LA 22-0015 (direct support workers) lose the opportunity to receive payment with changes that are being made with LA 23-0001 (case managers)?
2. LA 22-0015 increased payment rates for direct support workforce and support coordination recruitment and retention program. LA 23-0001 proposes to increase payment rates for personal care services and Early and Periodic Screening, Diagnostic and Treatment (EPSDT) targeted case management in the New Opportunities Wavier (NOW). Will ANY payee that is eligible to receive payment under approved LA 22-0015

lose the opportunity to receive payment with changes that are being made with LA 23-0001?

3. Please confirm that the changes to these payment rates above do not impact the state's Maintenance of Effort for home and community-based services under §9817 of the American Rescue Plan Act (ARP)?
4. Louisiana public notice was not submitted until December 20, 2022. The regulation at 42 CFR 447.205 would limit the earliest effective date for terminating the \$150 per month payment to the end of the day December 19, 2022. LA 23-0001, which implicitly includes the rescission of LA 22-0015 was submitted and received on January 6, 2023. While the payment enhancement of \$300 per month can be submitted under 1135 waiver options and receive an earlier effective date, the rescission of the LA 22-0015 approved \$150 payment cannot be effective earlier than January 1, 2023 under regulations at 42 CFR 430.20.
 - a. Please provide additional evidence that SPA submission requirements to rescind the \$150 per month payment amount were met in accordance with 42 CFR 447.205 and 42 CFR 430.20.
 - b. Please provide an analysis of the aggregate difference in payments (total computable) approved under LA 22-0015 and those proposed by LA-23-0001

Please note that the state may withdraw this SPA at any time and submit another disaster relief SPA by the end of the PHE, and may request an 1135 waiver permitting an effective date earlier than the first day of the quarter in which the SPA is submitted.

Pursuant to section 1135(b)(5) of the Social Security Act (Act), for the period of the PHE, CMS may modify 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.

CMS is requesting this additional/clarifying information under provisions of section 1915(f)(2) of the Act (added by PL 97-35). This has the effect of stopping the 90-day clock for CMS to take action on the material, which would have expired on April 6, 2023. A new 90-day clock will not begin until we receive your response to this request.

In accordance with our guidance to all State Medicaid Directors dated January 2, 2001, and subsequently reiterated in the August 16, 2018 Center for Medicaid & CHIP Services Informational Bulletin, if a response to a formal request for additional information from CMS is not received from the state within 90 days of issuance, CMS will initiate disapproval of the SPA action. In addition, because this amendment was submitted after January 2, 2001, and is effective after January 1, 2001, please be advised that we will defer federal financial participation (FFP)

for state payments made in accordance with this amendment until it is approved. Upon approval, FFP will be available beginning with the effective of the SPA.

Should you have any questions concerning this letter, please contact Tobias Griffin, Division of Program Operations, at 214-767-4425 or via e-mail at Tobias.Griffin@cms.hhs.gov.

Sincerely,

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