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June 21, 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 State Plan Amendment 23-0003

Dear Tara LeBlanc:

The Centers for Medicare & Medicaid Services (CMS) has completed our review of the proposed amendment submitted under transmittal number (TN) 23-0003. This Medicaid disaster relief (DR) state plan amendment (SPA) was submitted to respond to the COVID-19 public health emergency (PHE). The purpose of this amendment is to adopt provisions in the Home Health program in order to establish recruitment and retention payments for nurses that provide extended home health (EHH) services to beneficiaries under the age of 21, in accordance with Section 9817 of the American Rescue Plan Act (ARPA), and has an effective date of January 10, 2023.

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. Please note the State must not include reimbursement methodologies made by Managed Care entities and/or the through the Home and Community Based Services (HCBS) waivers. This methodology is for State plan services noted in Appendix B of SMDL#21-003. Please reference <<https://www.medicare.gov/federal-policy-guidance/downloads/smd21003.pdf>>

Louisiana will be permitted to use the state funds equivalent to the amount of federal funds attributable to the increased FMAP through the end of the ARPA period, on activities aligned with the goals of section 9817 of the ARPA.

- a. Please confirm this understanding.

2. Please confirm and provide assurance that the payments proposed under SPA 23-0003 are not being made for services provided under managed care contracts or HCBS waivers.
3. Please provide documentation of the CMS -179 fiscal impact calculations that tie the basis for the estimate to state plan authorized services and the fee-for-service (FFS) delivery system only.
  - a. During a Technical Assistance (TA) call with the state held on May 8<sup>th</sup>, 2023, the state made CMS aware that the state is wanting to also reimburse for the services under managed care contracts besides FFS. Please revise budget impact calculations to include estimates related to FFS only for this SPA.
  - b. CMS state lead for Louisiana is currently working with the CMS-managed care team to address any related managed care questions from the state and separately from this SPA review.
4. This SPA is a DR SPA with an effective date of 01/10/2023 through 05/11/2023. Please revise budget impact calculations for the year 2023 to include only the period in question.
5. Please remove 2024 budget impact from 179 Form, box 6 since this SPA end date is 05/11/2023.
6. Please remove any waiver-related language found in 179 Form, box 7.

**Reimbursement Plan Language:**

7. We recommend that the state include/modify reimbursement methodology language to include the following:
  - a. *Based on paid data from (XXX-XX-XXXX through (Date), the agency increases payment for the providers referenced in XXX's (name of State) American Rescue Plan Act Home and Community Based Services Enhanced Funding Spending Plan and that are listed in Appendix B., or could be listed in Appendix B., of the American Rescue Plan Act, State Medicaid Director Letter, SMD# 21-003 Implementation of American Rescue Plan Act of 2021 Section 9817: including {...} etc....*
  - b. "Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of (*ex. case management for persons with chronic mental illness*). The agency's fee schedule rate was set as of (*insert date here*) and is effective for services provided on or after that date. All rates are published (*ex. on the agency's website*)."

Section 9817 guidance to assist the state:

- o <https://www.medicaid.gov/federal-policy-guidance/downloads/smd21003.pdf>
- o <https://www.medicaid.gov/medicaid/home-community-based-services/guidance/strengthening-and-investing-home-and-community-based-services-for-medicaid-beneficiaries-american-rescue-plan-act-of-2021-section-9817/index.html>

- <https://www.medicaid.gov/media/file/la-hcbs-cvr-ltrredacted.pdf>

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 June 28, 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 and 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](mailto:tobias.griffin@cms.hhs.gov).

Sincerely,

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