



State of New Jersey
Department of Human Services
Division of Medical Assistance & Health Services

NEWSLETTER

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May 2023

TO: All Providers – **For Action**
Health Maintenance Organizations – **For Action**

SUBJECT: **Notice Regarding Public Health Emergency Flexibility Termination**

EFFECTIVE: **May 11, 2023**

PURPOSE: To notify Providers regarding the termination of COVID-19 Public Health Emergency Related Flexibilities

BACKGROUND: During the Public Health Emergency for COVID-19, certain allowances were put into place to assist providers in addressing challenges caused by the pandemic. To help states respond to the ongoing crisis, the White House, U.S. Department of Health and Human Services (HHS), and Centers for Medicare & Medicaid Services (CMS) invoked their emergency powers to authorize temporary flexibilities in Medicaid and the Children's Health Insurance Program (CHIP). The emergency declarations granted on March 13th, 2020, allowed for changes to many aspects of health care delivery during the COVID-19 Public Health Emergency (PHE). Providers were afforded flexibility to streamline delivery and improve access to care during the PHE. These flexibilities temporarily suspended certain provider enrollment and revalidation requirements to promote access to care, allowed providers to provide care in alternative settings, waived prior authorization requirements, and temporarily suspended certain pre-admission and annual screenings for nursing facility residents.

While some of the changes made as a result of the PHE may be permanent or extended, some waivers and flexibilities are set to expire with the end of the PHE on May 11, 2023, as they were intended to respond to the rapidly evolving pandemic, not to permanently replace standing rules. This newsletter lists those flexibilities that will no longer be in place at the end of the PHE.

ACTION: The following PHE flexibilities are set to expire on **May 11th 2023**:

Prior Authorization:

Medicaid/NJ FamilyCare will no longer suspend Medicaid fee-for-service prior authorization requirements. Prior authorization procedures will resume after this date.

Medicaid/NJ FamilyCare will no longer extend pre-existing authorizations for which a beneficiary has previously received prior authorization through the end of the public health emergency.

This Flexibility allowed for the waiver or modification of pre-approval requirements to permit services approved on or after March 1, 2020 to be provided to continue to be provided without a requirement for a new or renewed prior authorization.

Settings Requirements:

Medicaid/NJ FamilyCare will no longer allow for the provision of Services in Alternative Settings

This flexibility allowed facilities, including Nursing Facilities (NFs), intermediate care facilities for individuals with intellectual and developmental disabilities (ICF/IDDs), psychiatric residential treatment facilities (PRTFs), and hospital NFs, to be fully reimbursed for services rendered in an unlicensed facility (during an emergency evacuation or due to other need to relocate residents where the placing facility continues to render services).

Medicaid/NJ FamilyCare will no longer waive HCBS Settings Requirements for Specified Settings

This flexibility temporarily allowed services to be provided in settings that had not been determined to meet the home and community-based settings criteria.

Home and Community Based Services (HCBS):

Medicaid/NJ FamilyCare will once again require Beneficiary and Provider Signatures on HCBS Person-Centered Service Plan

This flexibility permitted the state to temporarily waive written consent required under home and community-based service programs.

Medicaid/NJ FamilyCare will transition to regular Level of Care Determinations and Redetermination Timelines

This flexibility allowed the state to modify the deadline for initial and annual level of care determinations. During the PHE, the initial determination of level of care did not need to be completed before the start of services and the annual level of care determination that exceeded the 12-month authorization period remained in place and services would continue until the assessment could occur. A reassessment could be postponed for up to one year.

Long Term Care:

Medicaid/NJ FamilyCare will no longer suspend Pre-Admission Screening and Annual Resident Review (PASRR) Level I and Level II Assessments for 30 days

This flexibility allowed Level I and Level II assessments to be waived for 30 days. PASRR Level I screenings must be completed prior to admission for all applicants after the end of the PHE.

Fair Hearings:

Medicaid/NJ FamilyCare will continue to allow longer timeframes in which to request a fair hearing.

Several PHE flexibilities will be expiring but NJ FamilyCare is maintaining extended timeframes for members to request a fair hearing. Effective May 11, 2023, applicants or enrollees will have up to 60 days to request a fair hearing for cases regarding eligibility and FFS, and 120 days for managed care utilization management appeals.

Provider Enrollment and Participation:

Medicaid/NJ FamilyCare will no longer allow temporary Provider Enrollment based on enrollment with another SMA.

This flexibility authorized the state to provisionally, temporarily enroll providers who are enrolled with another State Medicaid Agency (SMAs) for the duration of the public health emergency.

Presumptive Eligibility:

Medicaid/NJ FamilyCare will no longer allow additional eligibility groups to be enrolled via presumptive eligibility.

Medicaid/NJ FamilyCare allowed hospitals to make presumptive eligibility determinations for the following state plan or approved section 1115 demonstration populations during the PHE:

- Individuals Eligible For But Not Receiving Cash Assistance (all populations —section 1902(a)(10)(A)(ii)(I) of the Social Security Act)
- Individuals Eligible for Cash Except for Institutionalization (section 1902(a)(10)(A)(ii)(IV) of the Act)
- Both “217-Like” eligibility populations (“Special Income Level” and “Aged and Disabled”) served under the terms of the New Jersey FamilyCare Comprehensive 1115 Demonstration.
- Optional State Supplement Beneficiaries (section 1902(a)(10)(A)(ii)(XI) of the Act)
- Individuals in Institutions Eligible under a Special Income Level (ABD only— section 1902(a)(10)(A)(ii)(V) of the Act)
- Age and Disability-Related Poverty Level Group (section 1902(a)(10)(A)(ii)(X) of the Act)

Medicaid/NJ FamilyCare will no longer allow two presumptive eligibility periods during a single twelve month window.

Medicaid/NJ FamilyCare allowed two presumptive eligibility periods within a twelve-month window to all groups during the COVID-19 crisis.

Mental Health:

Medicaid/NJ FamilyCare will no longer allow providers to reserve beds for youth in residential mental health treatment centers for more than 14 days.

This flexibility enabled providers to exceed the 14-day limit for reserving beds for youth in residential mental health treatment centers during the Public Health

Emergency for any youth who required leave for treatment of COVID or COVID quarantine with prior authorization; this flexibility is ending with the Public Health Emergency.

Pharmacy:

Medicaid/NJ FamilyCare will no longer automatically allow the dispensing of a ninety (90) days' supply of maintenance medications and early prescription refills after the PHE ends. In addition, all signature requirements for pharmacy orders will be reinstated.

A Pharmacy-specific Medicaid Alert ([MA-2023-04](#)) has been published with additional information.

Personal Care Services:

Legally Responsible Individuals may no longer render Personal Care Services (PCS)

These expiring flexibilities allowed legally responsible individuals to provide personal care services (PCS), such as those provided by a Personal Care Assistant (PCA), to eligible beneficiaries. Beneficiaries currently receiving PCS through a legally responsible family member **are being identified and notified of the ending of the flexibility by their MCO**, as well as provided resources to ensure a seamless transition from the current methodology based on the flexibility to an acceptable method of service delivery.

Family members may no longer render Personal Care Services (PCS)

These expiring flexibilities allowed family members, other than those who are legally responsible for the beneficiary, to provide personal care services (PCS), such as those provided by a personal care assistant (PCA). Beneficiaries currently receiving PCS through a family member **are being identified and notified of the ending of the flexibility by their MCO**, as well as provided resources to ensure a seamless transition from the current methodology based on the flexibility to an acceptable method of service delivery.

The State remains committed to ensuring continuity of care for our members and collaboration with our federal partners, and to providing ongoing guidance during the conclusion of the national public health emergency as we return to normal operations.

If you have any policy questions regarding this Newsletter, please contact the Division of Medical Assistance, Office of Policy and Innovation (609-588-2600).

If there are any questions regarding this Newsletter, please contact the Gainwell Technologies Provider Services Unit at (800) 776-6334.

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