



CMCS Informational Bulletin

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SUBJECT: Update on State Plan Amendment and Section 1915 Waiver Process Improvements

On March 14th, 2017, the Department of Health and Human Services (HHS) and Centers for Medicare & Medicaid Services (CMS) issued a letter to Governors highlighting key areas for improved collaboration with states and more effective Medicaid program management. In the letter, CMS committed to engaging with states to make state plan amendment (SPA) and waiver reviews and approvals more transparent, efficient, and less burdensome. CMS is committed to fulfilling our statutory obligations to review SPA and section 1915(b) and 1915(c) waiver submissions for consistency with the requirements of the Social Security Act and any applicable agency regulations as efficiently as possible. This is the second Informational Bulletin CMS has issued related to SPA and 1915 waiver process improvements. This Bulletin provides an update on CMS' collaboration with states since release of the [first Bulletin](#), outlines the initial strategies CMS adopted to implement more efficient SPA and 1915 waiver review and adjudication processes, and highlights additional long term process improvements CMS has implemented. CMS is also announcing new procedures, effective October 1, 2018, to prevent formation of a backlog of pending amendments in instances where CMS has not received a state response to a formal request for additional information within 90 days of issuance. This issue is addressed on page five of this Bulletin. CMS addressed changes to Section 1115 demonstration review and approvals in separate guidance.

Progress on SPA and 1915 Waiver Processing Times

A key goal of this initiative was to develop a process improvement strategy that enhanced the efficiency of the SPA and 1915 waiver review process, reducing the administrative burden for states and, ultimately, reducing processing times. We collaborated closely with states and the National Association of Medicaid Directors (NAMD) to identify the issues that impact SPA and 1915 waiver processing and jointly developed a number of process improvement strategies, the first of which was implemented in the fourth quarter of 2017. The concerted effort by both states and CMS on process improvement and the implementation of the new strategies are beginning to result in more efficient and timely processing of SPA and 1915 waiver actions:

- Between calendar year 2017 and the first quarter of 2018, there was a 24 percent decrease in the median approval time for Medicaid SPAs.
- Eighty-four percent of Medicaid SPAs were approved within the first 90 day review period in the first quarter of 2018, a 21 percent increase over calendar year 2017.

- Between calendar year 2017 and the first quarter of 2018, median approval times for 1915(b) waivers decreased by 7 percent, 1915(c) renewal approval times decreased by 54 percent, and 1915(c) amendment approval times decreased by 48 percent.

Additional information on processing times is contained in Appendix 1.

Developing and Implementing a Process Improvement Strategy

In order to develop a process improvement strategy that would have an impact and achieve measurable improvements in SPA and 1915 waiver processing times, CMS undertook a number of activities to better understand current processes, identify issues, and develop improvement strategies. Staff examined available SPA and 1915 waiver processing data for 2016 and 2017 and conducted an analysis of a sample of SPAs and waivers to better understand the factors impacting processing time. CMS also conducted an intensive review of the current SPA and 1915 waiver standard operating procedures to identify areas for increased consistency and enhanced efficiency.

Soliciting state input was also essential to this process. State feedback was received through a variety of mechanisms to ensure that any process improvement activities were comprehensive and responsive to state needs. To facilitate collaboration, a federal-state workgroup was formed with representatives from more than a dozen states. In-person working sessions were held at the National Association of Medicaid Director's conferences in June and November of 2017, and the group met monthly through March of 2018 to ensure that states were able to respond to proposals developed by CMS and offer additional approaches and ideas. CMS also worked with representatives from states and several National Associations to hold similar conversations specific to enhancing the efficiency of the section 1915(c) waiver process.

On November 6th, 2017, CMS released an [Informational Bulletin](#) outlining the initial actions taken to bring efficiency and consistency to the SPA and 1915 waiver review processes. The Bulletin highlighted four process improvements: 1) implementation of a call with states within 15 days of receipt of each new SPA or 1915 waiver submission to review the state's intent for the submission and any critical timelines to help expedite the review process; 2) launch of a [SPA and 1915 Waiver Processing page](#) on Medicaid.gov with a compilation of tools available to states to facilitate the development of complete SPA and 1915 waiver submissions; 3) implementation of a strategy to reduce a significant backlog of SPAs and 1915 waivers that are pending due to a formal Request for Additional Information (RAI) from CMS to the state to which the state has not responded; and 4) expansion of the use of MACPro, a web-based system for SPA processing, to include Medicaid Modified Adjusted Gross Income (MAGI)-based eligibility and administration SPAs. The expansion included state plan provisions related to MAGI-based eligibility, enrollment processes (application and renewal), single state agency, citizenship/immigration, and presumptive eligibility.

The initial process improvement strategies implemented by CMS have been well received – for example, anecdotal evidence from states and CMS staff indicates that the 15 day call is having the intended effect and enhancing the efficiency of the review process by reducing the need for CMS to issue informal sets of questions to states related to SPA and 1915 waiver actions. Together, the combined focus on SPA and 1915 waiver processing and implementation of these

strategies is beginning to prove successful, with a 14 percent decrease in overall processing time in the first quarter after implementation of improvement strategies and a 20 percent increase in SPAs approved on the first clock over the baseline period.

Long-Term Process Improvements

To further our improvement efforts, CMS engaged in a longer term effort to review current business processes and identify areas for streamlining. This Bulletin highlights two long-term process improvements CMS is adopting as a result of these business process reviews. In addition, CMS continues to expedite and leverage the MACPro systems build, which will further streamline SPA reviews and provide a more collaborative, consistent and transparent review process for states.

Updates to the CMS SPA and 1915 Waiver Processing Standard Operating Procedures:

As previously discussed, in October of 2017, CMS implemented a permanent change to CMS' Standard Operating Procedures (SOP) for SPA and 1915 waiver reviews with the implementation of a CMS-state call within 15 days of a SPA or 1915 waiver submission. The purpose of this discussion is to expedite the SPA or 1915 waiver review by allowing states to explain the intent of the submission and allow CMS to communicate any incomplete information or identify any initial known policy issues.

CMS has continued to develop and implement additional changes to the SPA and 1915 waiver review SOP. On June 1, 2018, CMS established a new triaging protocol that will determine the path that SPAs and 1915 waivers will follow from submission to adjudication. The protocol includes three potential paths that a SPA or 1915 waiver can follow – expedited, escalation, and standard review paths. A process flow depicting the three pathways is included in Appendix 3.

Expedited Review Path:

CMS is piloting a new expedited review path whereby a cohort of SPAs and 1915 waivers will be adjudicated through a streamlined review process. These SPAs and 1915 waiver actions will be processed independently by CMS Regional Offices with the goal of adjudicating the SPAs and waivers significantly faster than the standard review path. Upon receipt, CMS will quickly assess whether new SPA and 1915 waiver submissions meet the criteria for expedited review or one of the other paths. To be eligible for expedited review, a SPA or 1915 waiver action must 1) be one of the SPA or waiver types identified in Appendix 2; and 2) be deemed complete, with all necessary information to process the action provided, including acceptable Upper Payment Limits, cost reports and funding questions, completed 179 forms, public notice information, and tribal consultation documentation, as applicable. These SPAs and waivers should have all information readily available at the time of the review and are technical changes that require minimal interaction between the state and CMS. At any given time during the review process, if CMS or the state discover unexpected issues or that the information provided is incomplete, approval of the SPA or waiver may be delayed. As CMS assesses the effectiveness of the streamlined review process during the pilot period, the criteria for expedited reviews may be updated and the actions eligible for expedited review in Appendix 2 may be modified.

Escalation Review Path:

This new review path identifies an escalation strategy for SPAs and 1915 waivers that have legal or policy issues or may be at risk for disapproval. The escalation path will engage CMS and state leadership during the first 90 day review period to collaborate and ideally resolve major issues quickly. Today, leadership involvement often does not occur until the second 90 day review period. The goal of earlier leadership engagement on challenging SPAs and 1915 waivers is to minimize the need for formal Requests for Additional Information, which frequently result in these actions spending prolonged periods of time in pending status, and disapprovals. We anticipate that these changes will result in faster processing times, increase the frequency of resolution during the first 90 day review period, and reduce administrative burden for both states and CMS.

Following the 15 day call, CMS staff will assess all SPA and 1915 actions for major policy issues that pose a high likelihood of disapproval, and the escalation pathway will initially be limited to these actions. This will allow CMS leadership to engage state leadership early, with the goal of preventing disapproval of the action. If, at any point later in the review process, a SPA or 1915 waiver action is determined to meet the criteria below, it will be elevated to the escalation review path and CMS leadership will engage with the state. An action could be escalated if (1) a significant policy issue arises that could result in a disapproval, (2) there is a lack of agreement on a policy between the state and CMS that cannot be resolved at the staff level, or (3) the state does not provide timely responses to informal RAI questions or other requested information needed to adjudicate the action. For example, if CMS and state staff are collaborating to complete a technical change and CMS staff receive new information indicating that the SPA or 1915 waiver has a significant policy issue that has a high likelihood of disapproval, this action would be escalated to leadership.

Standard Review Path:

Any SPA or 1915 waiver that is not identified as being eligible for the expedited or escalation paths will follow the current standard/routine SPA and 1915 waiver review process. The majority of SPAs and waivers will continue to be on the standard review path with the goal of adjudication within the first 90 days.

Reduction of the Pending SPA and 1915 Waiver Backlog:

A key driver of processing time is the length of time SPAs and waivers spend on hold, awaiting a response to a formal RAI issued from CMS to the state. In July 2017, there was a backlog of 365 SPAs and 1915 waivers pending on RAI, often for extended periods of time. This can delay both the approval of new SPA submissions that modify the same pages and a state's ability to draw down funds, as states are unable to claim federal financial participation (FFP) for pending SPAs.

In the fall of 2017, CMS implemented a strategy to reduce the backlog of pending SPAs and 1915 waivers on RAI, beginning with the 150 oldest actions. All states received a comprehensive list of their SPAs and waivers on RAI, and CMS partnered with states to provide technical assistance on the identified SPAs and 1915 waivers to move them towards resolution. CMS appreciates the partnership of states in this effort and together, we have achieved a 61 percent reduction of the total 365 backlogged pending SPAs and 1915 waivers. We continue to collaborate closely with states to resolve the remaining backlog of RAIs, but expect states to

commit to resolving outstanding issues quickly. For RAIs issued prior to October 1, 2018, we are encouraging states to respond as quickly as possible to the formal RAI request. States that are not working with CMS on these actions run the risk of disapproval.

CMS is also implementing new procedures to prevent a future backlog of amendments on RAI. For RAIs issued on or after October 1, 2018, 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 or waiver action. CMS will only initiate disapproval when the state does not provide CMS with information sufficient to continue advancement of the SPA or waiver action. We intend to resolve these actions in a manner that is both timely and satisfactory to states and CMS. Special consideration will be given to waiver renewals in order to avoid a disruption in services to beneficiaries.

Section 1915 Waiver Process Improvements

CMS formed a workgroup to focus specifically on additional strategies to increase the efficiency of processing 1915(c) Home and Community Based Waiver actions (new waivers, amendments and renewals). The group was comprised of representatives from NAMD, the National Association of State Directors of Developmental Disabilities Services (NASDDDS), the National Association of States United for Aging and Disabilities (NASUAD), the National Association of State Mental Health Program Directors (NASMHPD), the National Association of State Head Injury Administrators (NASHIA), and the American Public Human Services Association (APHSA), Louisiana, Minnesota, Pennsylvania, Wyoming, Nebraska, Texas, Florida, Michigan, and Wisconsin.

Based on their feedback and suggestions, CMS has instituted the following process improvements:

- Updates to the Waiver Review Tool: CMS has updated the 1915(c) Waiver Review Tool used by CMS analysts to review waiver submissions. It has been modified to focus only on regulatory citations in an effort to reduce the number of questions posed to States in Formal Requests for Additional Information (RAIs). The updated Tool was recently posted in the Waiver Application and Accompanying Materials on the Waiver Management System.
- 1915(c) Frequently Asked Questions: 1915(c) waiver actions are submitted by states to CMS electronically through the Waiver Management System (WMS). Several states raised similar questions and concerns about the system, as well as the automated submission and review process. Based on that feedback, CMS has developed a Frequently Asked Questions (FAQ) document to address common questions and concerns regarding the automated 1915(c) process. It is now posted on the Medicaid.gov page for 1915 Waiver Processing Tools for States.
- Template Language for Transition Plans: The requirement to submit a Waiver Specific Transition Plan in each 1915(c) Amendment or Renewal has been a difficult and time consuming process for States. CMS has developed the following language for states to use in Attachment 2 of the waiver application in order to fulfill the requirement:
“The state assures that this waiver amendment or renewal will be subject to any provisions or requirements included in the state's most recent and/or approved home and community-based settings Statewide Transition Plan. The state will implement any

required changes by the end of the transition period as outlined in the home and community-based settings Statewide Transition Plan.”

Conclusion

The SPA and 1915 waiver review and approval processes represent a substantial workload for both states and CMS. CMS looks forward to continued collaboration with states to ensure these improvement strategies are implemented in an efficient and streamlined manner. If you have any questions or need additional information, please contact Anne Marie Costello at AnneMarie.Costello@cms.hhs.gov or Verlon Johnson at Verlon.Johnson@cms.hhs.gov.

Appendix 1: Medicaid SPA and 1915 Waiver Adjudication Processing Times

Table 1 shows the percentage of Medicaid SPAs that were approved within the first 90 day review period. Tables 2 - 5 show the median processing time for Medicaid SPAs and 1915(b) and (c) waiver actions approved in calendar years 2016 and 2017, the final quarter of 2017 and 2018, including the median number of days that SPAs spent “on the clock” under review with CMS and “off the clock” pending additional information from the state.

Table 1. Percentage of Medicaid SPAs Approved Within the First 90 Day Review Period

| Time Period | % Approved in First 90 Days |
|--------------------|-----------------------------|
| Calendar Year 2016 | 64 |
| Calendar Year 2017 | 63 |
| First Quarter 2018 | 84 |

Table 2. Medicaid SPA Processing Times

| Time Period | Number of SPAs Approved | Median number of days between SPA submission and approval | Median number of days under CMS review | Median number of days pending additional information from the state ¹ |
|---------------------|-------------------------|---|--|--|
| Calendar Year 2016 | 839 | 82 | 80 | 90 |
| Calendar Year 2017 | 950 | 83 | 81 | 249 ² |
| First Quarter 2017 | 195 | 102 | 89 | 205 |
| Second Quarter 2017 | 261 | 85 | 81 | 157 |
| Third Quarter 2017 | 215 | 82 | 77 | 309 ² |
| Fourth Quarter 2017 | 279 | 73 | 73 | 297 ² |
| First Quarter 2018 | 192 | 63 | 63 | 90 |

¹ The denominator for the median number of days pending additional information from the state includes only SPAs approved during the specified time period for which CMS had issued a written request for additional information to the state.

² In late 2017, CMS partnered with states to reduce a backlog of SPAs pending additional information from states. The increase in the median number of days SPAs spent in pending status is a reflection of adjudication of SPAs that had remained in pending status for several years.

Table 3. 1915(b) Waiver Processing – New Waiver Requests, Renewals and Amendments

| Time Period | Number of Actions Approved | Median number of days between submission and approval | Median number of days under CMS review | Median number of days pending additional information from the state ¹ |
|---------------------|----------------------------|---|--|--|
| Calendar Year 2016 | 30 | 79 | 79 | 38 |
| Calendar Year 2017 | 45 | 81 | 81 | 83 |
| First Quarter 2017 | 9 | 99 | 85 | 17 |
| Second Quarter 2017 | 14 | 81 | 81 | 76 |
| Third Quarter 2017 | 10 | 67 | 37 | N/A |
| Fourth Quarter 2017 | 12 | 71 | 71 | 255 |
| First Quarter 2018 | 4 | 75 | 75 | N/A ² |

¹ The denominator for the median number of days pending additional information from the state includes only 1915 waivers where CMS issued a written request for additional information (RAI) to the state.

² There were no 1915(b) waivers approved in Q1 of 2018 where CMS issued a formal RAI.

Table 4. 1915(c) Waiver Amendments

| Time Period | Number of Actions Approved | Median number of days between submission and approval | Median number of days under CMS review | Median number of days pending additional information from the state ¹ |
|---------------------|----------------------------|---|--|--|
| Calendar Year 2016 | 150 | 78 | 78 | 53 |
| Calendar Year 2017 | 195 | 69 | 69 | 105 |
| First Quarter 2017 | 36 | 56 | 56 | 54 |
| Second Quarter 2017 | 47 | 86 | 86 | 156 |
| Third Quarter 2017 | 51 | 70 | 70 | 218 |
| Fourth Quarter 2017 | 61 | 44 | 44 | 16 |
| First Quarter 2018 | 33 | 36 | 36 | 18 |

¹ The denominator for the median number of days pending additional information from the state includes only 1915 waivers where CMS issued a written request for additional information (RAI) to the state.

Table 5. 1915(c) Waiver Renewals

| Time Period | Number of Actions Approved | Median number of days between submission and approval | Median number of days under CMS review | Median number of days pending additional information from the state ¹ |
|---------------------|----------------------------|---|--|--|
| Calendar Year 2016 | 43 | 135 | 100 | 215 |
| Calendar Year 2017 | 81 | 181 | 113 | 62 |
| First Quarter 2017 | 15 | 205 | 108 | 120 |
| Second Quarter 2017 | 27 | 161 | 88 | 422 |
| Third Quarter 2017 | 19 | 154 | 89 | 608 |
| Fourth Quarter 2017 | 20 | 138 | 87 | 60 |
| First Quarter 2018 | 5 | 84 | 76 | 8 |

¹ The denominator for the median number of days pending additional information from the state includes only 1915 waivers where CMS issued a written request for additional information (RAI) to the state.

Appendix 2: Actions Eligible for Expedited Review

The initial SPA and 1915 waiver types included in CMS' expedited review path pilot are listed below. As CMS assesses the effectiveness of the streamlined review process, the criteria for expedited reviews may be updated.

1932(a) Managed Care SPAs

- 1932(a) actions that are only making technical changes, such as:
 - Regulatory citation modifications
 - Selective contracting arrangement description

Coverage SPAs

- Inpatient hospital SPA with no hard limits

Payment SPAs

- Nominal rate increases (up to 4% annually) with no evident Upper Payment Limit issues
- Nominal rate reductions (less than 4% of overall spending) within a service category with no access to care concerns captured during public notice process
- Updates to effective dates
- Routine fee schedule changes
- Alignment with Medicare fee schedule
- Standard trend adjustments (Cost Of Living Adjustments (COLA), Consumer Price Index (CPI), etc.)
- Technical changes such as minor language changes and Healthcare Common Procedure Coding System (HCPCS)/CPT (Current Procedural Terminology) codes

1915(b) Waivers

- Waivers that are only making technical changes, such as:
 - State contact name, phone number and email address
 - Name of state contracted managed care plan(s)
 - Type of optional External Quality Review Organization activities performed
- Waivers that change the names of the managed care plans based on a re-procurement
- Waivers that do not include (b)(3) services and are only making changes to cost-effectiveness on a retroactive basis, after comparing to the actuals on the CMS-64

1915(c) Waivers and 1915(i) SPAs

- A waiver amendment (no new waivers or renewals) that:
 - Does not contain a change to the waiver specific transition plan, AND
 - Does not include a substantive change because it only makes one or more of the following changes:
 - Increases in Factor C (number of waiver participants)
 - Nominal rate increases (up to 10% annually) with no change in rate methodology

- Updates to effective dates for amendments submitted within the first year of the approved waiver effective date
- Routine fee schedule changes
- Alignment with Medicare fee schedule changes
- Standard trend adjustments consistent with approved rate methodology (COLA, CPI, etc.)
- Technical changes such as change in waiver name, links or references within the waiver, minor language changes, and the like.

Appendix 3: Triaging Protocol Process Flow

This process flow outlines the three review pathways a SPA or 1915 waiver could follow under CMS’ triaging protocol: standard, escalated, or expedited review pathways.

