

April 25, 2023

Ted Mermigos  
Interim Medicaid Director  
Division of Medicaid and Medical Assistance  
Department of Health and Social Services  
1901 N. Dupont Highway  
New Castle, DE 19720

Dear Mr. Mermigos:

In response to the section 1115(a) demonstration opportunity announced to states on March 22, 2020, in State Medicaid Director Letter (SMDL) #20-002<sup>1</sup> on December 16, 2022, Delaware submitted a request for an amendment to the “Delaware Diamond State Health Plan” section 1115(a) demonstration (Project Number 11-W-00036/4) to address the COVID-19 Public Health Emergency (PHE) currently expected to end on May 11, 2023<sup>2</sup>. CMS determined that the state’s application is complete, consistent with the exemptions and flexibilities outlined in 42 CFR 431.416(e)(2) and 431.416(g).<sup>3</sup> CMS expects that states will offer, in good faith and in a prudent manner, a post-submission public notice process, including tribal consultation as applicable, to the extent circumstances permit. This letter serves as a time-limited approval of the state’s requests, which will be approved as an amendment under the Delaware Diamond State Health Plan demonstration and which is hereby authorized retroactively from March 1, 2020, and ending when all redeterminations are conducted during the unwinding period.

CMS has determined that the COVID-19 PHE amendment to the Delaware Diamond State Health Plan – including the Medicaid expenditure authority detailed below and in Attachment K– is necessary to assist the state in delivering the most effective care to its beneficiaries in

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<sup>1</sup> See SMDL #20-002, “COVID-19 Public Health Emergency Section 1115(a) Opportunity for States,” available at <https://www.medicare.gov/sites/default/files/Federal-Policy-Guidance/Downloads/smd20002-1115template.docx>.

<sup>2</sup> <https://aspr.hhs.gov/legal/PHE/Pages/COVID19-9Feb2023.aspx>  
<https://www.hhs.gov/about/news/2023/02/09/letter-us-governors-hhs-secretary-xavier-becerra-renewing-covid-19-public-health-emergency.html>

<sup>3</sup> Pursuant to 42 CFR 431.416(g), CMS has determined that the existence of unforeseen circumstances resulting from the COVID-19 PHE warrants an exception to the normal state and federal public notice procedures to expedite a decision on a proposed COVID-19 section 1115 demonstration or amendment. States applying for a COVID-19 section 1115 demonstration or amendment are not required to conduct a public notice and input process. CMS is also exercising its discretionary authority to expedite its normal review and approval processes to render timely decisions on state applications for COVID-19 section 1115 demonstrations or amendments. CMS will post all section 1115 demonstrations approved under this COVID-19 demonstration opportunity on the Medicaid.gov website.

light of the COVID-19 PHE. The demonstration amendment is likely to assist in promoting the objectives of the Medicaid statute because it is expected to help the state furnish medical assistance in a manner intended to protect, to the greatest extent possible, the health, safety, and welfare of individuals who may be affected by COVID-19. This approval allows the state to align their policies for young adults in Medicaid and CHIP, and prevent gaps in coverage during the PHE.

In addition, in light of the unprecedented emergency circumstances associated with the COVID-19 pandemic and in consequence of the time-limited nature of this demonstration amendment, CMS did not require the state to submit budget neutrality calculations for this COVID-19 PHE amendment to the Delaware Diamond State Health Plan demonstration. In general, CMS has determined that the costs to the federal government are likely to have been otherwise incurred and allowable. Delaware will still be required to track demonstration expenditures and will be expected to evaluate the connection between those expenditures and the state's response to the PHE, as well as the cost-effectiveness of those expenditures. Due to the highly limited scope of the changes under the amendment, CMS is incorporating this amendment as Attachment K to the Delaware Diamond State Health Plan Special Terms and Conditions (STC).

### ***Request CMS is Approving at this Time***

CMS is approving the Medicaid expenditure authority, as described below, retroactively starting March 1, 2020, and ending the earlier of the date when all redeterminations are conducted for Medicaid and CHIP beneficiaries during the unwinding period or May 31, 2024.

- 1. Continuous Coverage for Individuals Aging Out of CHIP.** Expenditures to provide continued eligibility for CHIP enrollees who turned 19 (and therefore lost eligibility for CHIP due to age) and who are otherwise ineligible for Medicaid due to income above 133 percent of the federal poverty level (FPL) between March 1, 2020 and ending the earlier of the date when all redeterminations for Medicaid and CHIP beneficiaries are conducted during the unwinding period or May 31, 2024.

### ***Monitoring and Evaluation Requirements***

Under this amendment, the state will test whether and how the approved expenditure authorities facilitate the state's response to the PHE. To that end, CMS expects the state to undertake data collection and analyses that are meaningful; CMS believes that these will not be unduly burdensome. The state must submit an Evaluation Design to CMS no later than 60 days after the demonstration amendment is approved. As described further in Attachment K, the state is expected to describe its plans to collect and report data on the number of beneficiaries served, service utilization, and cost outlays under this amendment. The Evaluation Design should describe how the state may leverage, for example, qualitative methods and descriptive data to help address evaluation questions that will support understanding the successes, challenges, and lessons learned in implementing the demonstration amendment. The state is required to post its Evaluation Design to the state's website within 30 days of CMS approval of the Evaluation Design, per 42 CFR 431.424(e).

Furthermore, in alignment with the approved Evaluation Design, no later than one year after the end of the amendment approval period, the state must submit a Final Report. The Final Report will consolidate the monitoring and evaluation reporting requirements for this expenditure authority. In addition to capturing data on the number of individuals served, cost outlays, and utilization of services under this amendment, the Final Report will undertake qualitative and descriptive assessment on the demonstration implementation, lessons learned, and best practices for similar situations. Per 42 CFR 431.428(a), for each year of the amendment period, the state is required to complete an Annual [Monitoring] Report; the state may submit all applicable requirements stipulated for an Annual Report (e.g., administrative difficulties in the operation of the demonstration, issues and/or complaints identified by beneficiaries about the health care delivery system under the demonstration, any state legislative developments that may impact the demonstration) for the amendment approval period in the Final Report.

Approval of this demonstration amendment is subject to the limitations specified in the approved expenditure authority and the enclosed Attachment K to the STCs. The state may deviate from its Medicaid state plan requirements only to the extent specific in the approved expenditure authority and the enclosed STCs for the demonstration. This approval is conditioned upon continued compliance with the previously approved STCs, which set forth in detail the nature, character, and extent of anticipated federal involvement in the project.

The award is subject to CMS receiving written acceptance of this award within 15 days of the date of this approval letter. Your project officer is Wanda Boone-Massey. Ms. Boone-Massey is available to answer any questions concerning implementation of the state's section 1115(a) demonstration amendment and her contact information is as follows:

Centers for Medicare & Medicaid Services  
Center for Medicaid and CHIP Services  
Mail Stop S2-25-26  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850  
Email: [Wanda.Boone-Massey@cms.hhs.gov](mailto:Wanda.Boone-Massey@cms.hhs.gov)

We appreciate your state's commitment to addressing the significant challenges posed by the COVID-19 pandemic, and we look forward to our continued partnership on the Delaware Diamond State Health Plan section 1115(a) demonstration. If you have any questions regarding this approval, please contact Ms. Mehreen H. Rashid, Acting Director, State Demonstrations Group, Center for Medicaid and CHIP Services, at (410) 786-9686.

Sincerely,

A black rectangular redaction box covering the signature of Daniel Tsai.

Daniel Tsai  
Deputy Administrator and Director

Page 4 – Mr. Ted Mermigos

Enclosure

cc: Talbatha Myatt, State Monitoring Lead, Medicaid and CHIP Operations Group

## Attachment K

### Time-limited Expenditure Authority and Associated Requirements for the COVID-19 Public Health Emergency (PHE) Demonstration Amendment

#### Expenditure Authority

Under the authority of section 1115(a)(2) of the Social Security Act (the Act), expenditures made by the state for the items identified below, which are not otherwise included as expenditures under section 1903 of the Act shall, for the period retroactively from March 1, 2020 and ending the earlier of the date when all redeterminations for Medicaid and CHIP are conducted during the unwinding period, or May 31, 2024.

- 1. Continuous Coverage for Individuals Aging out of CHIP.** Expenditures to provide continued eligibility for CHIP enrollees who turn 19 (and therefore, lost eligibility for CHIP due to age) and who are otherwise ineligible for Medicaid due to income above 133 percent of the federal poverty level (FPL) between March 1, 2020 and ending the earlier of the date when all redeterminations for Medicaid and CHIP beneficiaries are conducted during the unwinding period or May 31, 2024.

#### Monitoring and Evaluation Requirements

- 1. Evaluation Design.** The state must submit an Evaluation Design to CMS within 60 days of the demonstration amendment approval. CMS will provide technical assistance on developing the Evaluation Design, in alignment with guidance developed specifically for the expenditure authorities approved for the COVID-19 PHE. For this demonstration amendment, the state will test whether and how the approved expenditure authority facilitated the state's response to the COVID-19 PHE, and helped promote the objectives of Medicaid. To that end, the evaluation will address thoughtful evaluation questions that support understanding the successes and challenges in implementing the expenditure authority. The state is required to post its Evaluation Design to the state's website within 30 days of CMS approval of the Evaluation Design, per 42 CFR 431.424(e).
- 2. Final Report.** The state is required to submit a Final Report, which will consolidate monitoring and evaluation reporting requirements for this expenditure authority. The state must submit the draft Final Report no later than 18 months after either the expiration of the demonstration approval period or the end of the latest rating period covered under this approved expenditure authority, whichever comes later. The Final Report should include a background description of the scope and objectives of the amendment, and in alignment with proposed evaluation questions and approaches in the approved Evaluation Design, an assessment of the implementation of the demonstration amendment, lessons learned thereof, and best practices for similar situations. The state will be required to track expenditures associated with this amendment, including but not limited to, administrative costs and program expenditures. The Final Report shall include an

assessment of the linkage between those expenditures and the state’s response to the PHE. For each year of the amendment, to satisfy the requirements set in 42 CFR 431.428(a), the state may submit any applicable information as part of the Final Report. CMS’s section 1115 demonstration evaluation guidance, “Preparing the Evaluation Report”<sup>4</sup> provides pertinent instructions that would be helpful in preparing the consolidated Final Report. The state should customize the content of the Final Report to align with the specific scope of the demonstration amendment. CMS will provide additional technical assistance on the structure and content of the Final Report.

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<sup>4</sup> Available at <https://www.medicaid.gov/sites/default/files/2020-02/preparing-the-evaluation-report.pdf>.