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State/Territory Name: Utah

State Plan Amendment (SPA) #: 20-0007

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850



Financial Management Group

May 28, 2020

Nate Checketts, Director
Division of Health Care Financing
Utah Department of Health
P.O. Box 143101
Salt Lake City, UT 84114-3101

Re: Utah 20-0007

Dear Mr. Checketts:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 20-0007. Effective for services on or April 1, 2020, this amendment extends the time period nursing facility providers can qualify to receive various quality improvement initiatives (QII) provided for under their state plan. Specifically, due to the impact of COVID-19, this amendment extends the end date of the period from May 31, 2020 through June 30, 2020, for NFs to qualify to receive supplemental payments QII2 and QII3.

The State of Utah requested a waiver of public notice requirements applicable to the SPA submission process. Pursuant to section 1135(b)(1)(C) of the Act, CMS is waiving public notice requirements applicable to the SPA submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42C.F.R. §440.386 for changes to Alternative Benefit Plans (ABPs). Pursuant to section 1135(b) (1)(C), CMS is approving the state's request to waive these notice requirements otherwise applicable to SPA submissions.

The State of Utah also requested a waiver to modify the tribal consultation timeline applicable to this SPA submission process. Pursuant to section 1135(b)(5) of the Act, CMS is also allowing states to modify the timeframes associated with tribal consultation required under section 1902(a)(73) of the Act, including shortening the number of days before submission or conducting consultation after submission of the SPA.

These waivers or modifications of the requirements related to public notice and tribal consultation apply only with respect to SPAs that meet the following criteria: (1) the SPA provides or increases beneficiary access to items and services related to COVID-19 (such as by waiving or eliminating

cost sharing, increasing payment rates or amending ABPs to add services or providers); (2) the SPA does not restrict or limit payment or services or otherwise burden beneficiaries and providers; and (3) the SPA is temporary, with a specified sunset date that is not later than the last day of the declared COVID-19 public health emergency (or any extension thereof). We nonetheless encourage states to make all relevant information about the SPA available to the public so they are aware of the changes.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30) and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C. We are pleased to inform you that Medicaid State plan amendment TN 20-0007 is approved effective April 1, 2020. The CMS-179 and the amended plan pages are attached.

If you have any questions, please contact Christine Storey at (303) 844-7044.

Sincerely,

A solid black rectangular redaction box covering the signature area.

Kristin Fan
Director

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u>U T — 20 00 07</u>	2. STATE Utah
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE: April 1, 2020	

5. TYPE OF PLAN MATERIAL (Check One)

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT


COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION Section 1902(a)(30)(A) of the Social Security Act	7. FEDERAL BUDGET IMPACT a. FFY <u>2020</u> \$0 b. FFY <u>2021</u> \$0
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT ATTACHMENT 4.19-D, Section 927, Pages 4a and 4b	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)


10. SUBJECT OF AMENDMENT: Quality Improvement Incentives

11. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL 	16. RETURN TO Craig Devashrayee, Manager Technical Writing Unit Utah Department of Health PO Box 143102 Salt Lake City, UT 84114-3102
13. TYPED NAME: Joseph K. Miner, M.D.	
14. TITLE: Executive Director, Utah Department of Health	
15. DATE SUBMITTED: April 30, 2020	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED	18. DATE APPROVED 05/28/2020
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL 04/01/20	20. SIGNATURE OF REGIONAL OFFICIAL 
21. TYPED NAME Kristin Fan	22. TITLE Director, FMG

900 RATE SETTING FOR NFs (CONTINUED)

On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency by the authorities vested in him by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.), and consistent with section 1135 of the Social Security Act (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act as a result of the consequences of the COVID-19 pandemic, to the extent necessary, as determined by the Centers for Medicare & Medicaid Services (CMS), to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and waivers will no longer be available, upon termination of the public health emergency, including any extensions.

The State Medicaid agency (agency) seeks to implement the policies and procedures described below, which are different than the policies and procedures otherwise applied under the Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof), or for any shorter period described below:

Due to the nature of the payments in question, the duration of this amendment is not needed beyond June 30, 2020.

Request for Waivers under Section 1135

The agency seeks the following under section 1135(b)(1)(C) and/or section 1135(b)(5) of the Act:

- a. SPA submission requirements – the agency requests modification of the requirement to submit this SPA by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 CFR 430.20.
- b. Public notice requirements – the agency requests waiver of public notice requirements that would otherwise be applicable to this SPA submission. These requirements may include those specified in 42 CFR 440.386 (Alternative Benefit Plans), 42 CFR 447.57(c) (premiums and cost sharing), and 42 CFR 447.205 (public notice of changes in statewide methods and standards for setting payment rates).
- c. Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in Utah Medicaid state plan, as described below:

Waiver of the timelines associated with tribal consultation is requested. The agency presented this amendment to the Utah Indian Health Advisory Board on May 8, 2020.

T.N. # 20-0007

Approval Date 05/28/20

Supersedes T.N. # New

Effective Date 4-1-20

900 RATE SETTING FOR NFs (CONTINUED)

Due to the COVID-19 pandemic, the following adjustments to QII(2) and (3) incentive periods are as follows:

- Quality Improvement Incentive 2 (QII2):
 - The incentive period for State Fiscal Year (SFY) 2020 shall be from July 1, 2018, through June 30, 2020.
- Quality Improvement Incentive 3 (QII3):
 - The incentive period for SFY 2020 shall be from July 1, 2019, through June 30, 2020.

T.N. # 20-0007

Approval Date 05/28/20

Supersedes T.N. # New

Effective Date 4-1-20