

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



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September 20, 2021

Dawn Stehle  
Deputy Director for Health and Medicaid  
Arkansas Department of Human Services  
112 West 8th Street, Slot S401  
Little Rock, AR 72201-4608

Re: Section 1135 Flexibilities Requested in September 14, 2021 Communication  
(Fourth Request)

Dear Ms. Stehle:

The Centers for Medicare & Medicaid Services (CMS) granted an initial approval to the State of Arkansas for multiple section 1135 flexibilities on April 2, 2020. Your follow-up communication to CMS on September 14, 2021, detailed a number of additional federal requirements that also pose issues or challenges for the health care delivery system in Arkansas and requested a waiver or modification of those additional requirements. Attached, please find a response to your requests for waivers or modifications, pursuant to section 1135 of the Social Security Act (Act), to address the challenges posed by COVID-19. This approval addresses those requests related to Medicaid. To the extent the requirements the state requested to waive or modify apply to CHIP, the state may apply the approved flexibilities to CHIP. This applies to the waivers included below, as well as the 1135 waivers granted to the state on April 2, 2020; May 5, 2020; and March 25, 2021.

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 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 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 17, 2020. The emergency period will terminate, and section 1135 waivers will no longer be available, upon termination of the public health emergency, including any extensions.

To streamline the section 1135 waiver request and approval process, CMS has issued a number of blanket waivers for many Medicare provisions, which primarily affect requirements for individual facilities, such as hospitals, long term care facilities, home health agencies, and so on. Waiver or modification of these provisions does not require individualized approval, and, therefore, these authorities are not addressed in this letter. Please refer to the current blanket waiver issued by CMS that can be found at:

<https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>.

This letter is in response to all requests submitted to CMS. If the state determines that it has additional needs, please contact your state lead and CMS will provide the necessary technical assistance for any additional submissions.

Please contact Jackie Glaze, Deputy Director, Medicaid and CHIP Operations Group, at (404) 387-0121 or by email at [Jackie.Glaze@cms.hhs.gov](mailto:Jackie.Glaze@cms.hhs.gov) if you have any questions or need additional information. We appreciate the efforts of you and your staff in responding to the needs of the residents of the State of Arkansas and the health care community.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel Tsai', with a long horizontal flourish extending to the right.

Daniel Tsai  
Deputy Administrator and Director

STATE OF ARKANSAS  
APPROVAL OF FEDERAL SECTION 1135 WAIVER REQUESTS

**CMS Response: September 20, 2021**

To the extent applicable, the following waivers and modifications also apply to CHIP.

**1915(i) HCBS State Plan Option Required Timeframe for Initial Evaluations and Assessments, and Re-evaluations and Reassessments**

Pursuant to section 1135(b)(5) of the Act, CMS approves a waiver allowing the state to modify the deadline for conducting initial evaluations of eligibility at 42 C.F.R. §441.715(d) and initial assessments of need to establish a care plan at 42 C.F.R. §441.720(a). With this waiver, these activities do not need to be completed before the start of care.

In addition, pursuant to section 1135(b)(5) of the Act, CMS is allowing the state to modify the deadline for annual redetermination of eligibility required for the 1915(i) state plan benefit, as described in 42 C.F.R. §441.715(e) and 1915(i)(1)(I) of the Act, and annual reassessment of need required for the 1915(i) state plan benefit, as described in 42 C.F.R. §441.720(b). With these waivers, the annual eligibility determinations and reassessments of need that exceeds the 12-month authorization period will remain in place and services will continue until the re-evaluation and reassessment can occur. These actions may be postponed for up to one year.

**Duration of Approved Waivers**

Unless otherwise specified above, the section 1135 waivers described herein are effective March 17, 2020 and will terminate upon termination of the public health emergency, including any extensions. In no case will any of these waivers extend past the last day of the public health emergency (or any extension thereof).