

March 17, 2020

**Via E-Mail**

Theresa Miller, Secretary  
Sally Kozak, Deputy Secretary, OMAP  
Kevin Hancock, Deputy Secretary, OLTL  
Department of Human Services  
Harrisburg, PA

**Re: Additional Actions to Protect Medicaid Consumers During COVID-19 Outbreak**

Dear Secretary Miller & Deputy Secretaries Kozak and Hancock –

As organizations that serve the Medicaid population, we applaud the Department of Human Services (DHS) for taking quick action to address and provide treatment for the 2019-novel coronavirus. We appreciate your commitment to removing barriers such as cost-sharing and prior authorization to virus testing and treatment during this time of crisis.

We recommend the Department take additional actions because we fear that many Medicaid consumers will disproportionately suffer the impact of the continued spread of COVID-19. By virtue of their medical vulnerability and economic insecurity, Medicaid consumers will be among those most harmed by both the virus' disease burden and mitigation efforts like self-quarantining. **Above all, we urge you to immediately impose a temporary moratorium on all service denials and all Medicaid benefit terminations.** If they are not already, hospitals and nursing facilities are likely to be inundated with new patients/residents and compromised by the impact of the virus on their own staffs. We urge the Department to use every tool at its disposal to mitigate any increased demand on hospitals and nursing facilities and fully maintain in-home services for the Medicaid populations at heightened risk of being institutionalized.

We ask the Department to use all available authorities, including under Governor Wolf's emergency declaration and through waivers available under Section 1135 of the Social Security Act, to take the following actions:

**Across All Program Offices Administering Medicaid Benefits**

- **Moratorium on All Service Denials**
  - The Centers for Medicare & Medicaid Services (CMS) makes clear in its 3/16/20 letter approving Florida's Section 1135 waiver request that state agencies are permitted to "suspend" adverse benefit determinations when they delays scheduling fair hearings and taking final administrative action.
  - To preserve due process rights in light of the closure of the Bureau of Hearings & Appeals, and to ensure that consumers receive the services and supports they need in a timely manner, DHS should instruct all MCOs to authorize all requests for covered benefits for the duration of the Governor's emergency declaration or until BHA reopens.

- **Pharmacy – Early Refills & 90-day Supplies**
  - To reduce the need for consumers to leave their homes, allow 90-day fills for all non-opioid medications and early refills up to 30 days before the normal refill date.
- **Expand Telehealth Options**
  - Current DHS policy limits the use telehealth in Federally Qualified Health Centers to telepsychiatry services only. Telehealth options beyond psychiatry should be allowed for FQHCs and beyond solely the live-video modality for both FQHCs and physicians/ CRNPs. DHS should at least temporarily provide reimbursement for all of the major telehealth modalities, including phone-only visits.
- **Relax Prior Authorization and Concurrent Review Requirements**
  - Recognizing that many individuals will have a difficult time getting into their prescribing physicians’ offices, DHS and the MCOs should request a federal waiver of service prior authorization requirements. CMS recently granted Florida this flexibility from its normal State Plan provisions under Section 1135 of the Social Security Act. At a minimum, DHS and its managed care contractors should waive the normal prior authorization and concurrent review requirements for prescription drugs, enteral nutrition and formula, and medical supplies such as oxygen and diabetic testing strips.
- **Maintain MATP Services**
  - As most non-essential medical appointments are cancelled and with many county transportation providers stating that they will only provide “life-sustaining” transportation, DHS should issue MATP guidance to counties to ensure that beneficiaries who have essential appointments for which providers are still expecting that patient to be present will be maintained, that transportation to testing and screening for COVID-19 is available on demand, that best practices are followed for ride capacity scheduling and that proper precautions to prevent exposure to sick individuals are put in place for patients and drivers, that high-risk patients are transported alone to avoid exposure, and that counties maintain proper response times for ride scheduling. Additionally, DHS should ask managed care organizations, where able, to expand additional transportation options when feasible.

**Office of Administration/Bureau of Hearings & Appeals**

- **Automatically Grant Interim Assistance**
  - With the closure of all BHA offices, DHS should immediately provide interim assistance for all pending fair hearing requests regarding Medicaid eligibility or services. New fair hearing requests should decline dramatically if DHS places a moratorium on all benefit terminations and service denials.
- **Automatically Grant Aid-Paid-Pending**
  - In the alternative, DHS should grant benefits continuing for all service denial and eligibility fair hearing requests where the service or benefit was previously

authorized, regardless of whether the appeal was filed within the ten-day deadline for aid-paid-pending.

- CMS makes clear in its 3/16/20 approval of Florida’s request for a Section 1135 waiver that states “may offer to continue benefits to individuals who are requesting a fair hearing if the request comes later than the date of the action under 42 CFR 431.230.”

### **Office of Medical Assistance Programs**

- **Moratorium on Pediatric Shift Nursing Reductions**
  - Medically complex children rely on shift nursing to remain healthy, infection-free, and safe at home with their families. Due to the high risk of institutionalization that many children would face if their shift nursing hours are reduced, we urge DHS to direct all PH-MCOs and the Fee-for-Service program to suspend all terminations and reductions of shift nursing services.
- **Ensuring Sufficient Staffing of Approved Shift Nursing and Home Health Aide Services**
  - Many children rely on the critical support of home health nurses and aides to keep them alive and well. When authorized nurses or aides are not available, parents lose their jobs and go without sleep. Shortages of nurses have existed for a long time, but there is reason to expect that home health nurses, as well as aides, will be in substantially shorter supply during the pandemic, putting children’s lives at risk. The following recommendations are, for the time being, limited to addressing this short-term crisis:
    - Ensure that all MCOs pay for overtime and provide adequate incentives, such as rate increases and bonuses when nurses or aides go the extra mile.
    - Allow parents, on a voluntary basis and with appropriate home health agency supervision, to be paid to provide care to their own children at home, to the extent that they have the credentials to do so, freeing up nurses and aides for children who would otherwise be at risk, and limiting outside contact for children who are particularly vulnerable to the virus. It would be necessary for the Department to ensure that the MCOs cannot require parents to stay home to care for their children.
    - Gear up to quickly recruit and train more home health aides who are also in short supply.
    - Triage may become necessary. One parent cannot safely provide more than 16 hours of paid or unpaid care per day, and so for children who need round-the-clock skilled awake supervision, at least one outside nursing shift per day must be an absolute priority for coverage.

- **Special Needs Unit (SNU) Targeted Outreach**

- SNU case workers should make telephonic outreach to the parents/guardians of all children receiving shift care services, to ensure that approved hours are being staffed to the fullest extent possible and that children with medical complexity are receiving other medically necessary services like prescriptions, supplies, formula, etc. It should also be the responsibility of the SNU case manager to connect the family with social supports and agencies such as grocery delivery, Lyft/Uber, and other social services that allow families of medically complex children to engage in social distancing to protect their child from illness exposure.

### **Office of Long-Term Living**

#### **1. Comprehensive Needs Reassessment Modifications**

Modifications that limit the circumstances by which reassessments are conducted are necessary to free up service coordinator time to focus on shoring up and implementing HCBS recipient back-up plans, responding to emergency call outs, ensuring authorizations for items and services continue uninterrupted, and conducting other activities that will ensure recipients health and safety and minimize disruptions in care during the COVID-19 crisis.

a. Suspend reassessments unless there is:

- i. A triggering event
- ii. Request by participant / request for new or increased services

b. Telephonic Reassessments: Develop protocols for telephonic reassessments in circumstances where reassessments are permitted and where the participant is amenable to that approach. Protocols should include an evaluation of whether the participant can effectively communicate their needs, desires, and preferences by telephone, ensure accommodations if they cannot, and require that participants, particularly those with cognitive impairments, identified family members, and others they have designated participate in the process. Ensure that reassessments include questions that will elicit details about the home environment that normally would be visually observed.

#### **2. Moratorium on Reduction of HCBS Services / Service Plan Reductions**

CHC-MCO's should not be permitted to reduce or terminate HCBS services for the duration of the coronavirus emergency in order to minimize disruptions in care and reduce reliance on an appeals system that is not fully operational.

#### **3. LTSS Eligibility/Redeterminations**

##### **1. Eligibility Process**

1. Conduct the initial IEB visit by telephone and complete the PA600L or Compass application with the applicant's telephonic signature, unless the applicant can access and use Compass. Use telephonic signatures and verbal authorizations for any other forms that require completion.
2. Allow resource and income self-attestation.

3. Increase follow-up to participants by IEB and CAO to ensure all information is received and applications are complete.
  4. Conduct Functional Eligibility Determinations (FEDs) by telephone. If the applicant is found NFCE, continue processing the application. If the applicant is found NFI, offer an in-person FED to make sure all needs were properly captured. In the latter situation, offer a telephone call to explain the reason for the NFI finding and allow the applicant (and any family or caregivers) to provide additional information that might have been missed by the telephone FED.
  5. All telephone communications and assessments must be conducted in a way that ensures full language access for people with limited English proficiency, accommodates people with disabilities, including those with hearing impairments, and ensures that people, particularly those with cognitive impairments, are allowed to include designated family or others in the process.
2. Renewals and Redeterminations:
    1. Suspend all NFCE redeterminations.
    2. Suspend all waiver renewals and terminations.

#### 4. Crisis Response Team

Require MCOs to have a dedicated crisis team to assist with emergencies including PAS and shift nursing shortage emergencies. The teams should have the power to put in place emergency authorizations for HCBS services without a comprehensive needs assessment. Teams should also be able to quickly identify alternative, including out-of-network, home health and nursing agencies in order to staff cases.

#### 5. MCO Outreach to HCBS recipients

- a. HCBS participants who had been attending day programs and centers, whether or not funded by HCBS, that are closed due to COVID-19:
  - i. Evaluate service needs and expedite authorizations for services that address gaps in care.
- b. All HCBS Participants, prioritizing high need members, members who live alone and those with cognitive impairments:
  - i. Review back-up plans to ensure that they are still feasible and realistic. Address back-up plans with gaps.
  - ii. Assess stock of and ability to access food and essential household items and supplies. Develop a plan for ensuring access to food and other household items and supplies that are needed.
  - iii. Assess stock of medical equipment and supplies.
  - iv. Provide education on safety precautions to prevent COVID-19 spread. Ensure participants have a plan for getting tested/ getting medical attention if they develop COVID-19 symptoms.

- v. Provide fact sheet with basic information regarding COVID-19 and emergency contacts, including a back-up contact if the regular service coordinator is unavailable. Materials must be provided in participants' preferred language or preferred alternate format.

## **6. Provide Behavioral Health Resources to all Participants**

Provide behavioral health resources, including BH-MCO numbers, local crisis numbers and the National Disaster Distress Helpline to all recipients, including those in nursing homes and those who are not receiving LTSS. Materials must be provided in participants' preferred language or preferred alternate format.

## **7. Address Direct Care Workforce Shortage Concerns**

COVID-19 will put pressure on an already stressed system in terms of direct care workers. We encourage DHS to pursue the following changes to remove barriers and ensure that CHC participants receive the care they need to ensure their health and safety during this crisis:

- a. Fast track certification and hiring of PAS workers.
- b. Hire family members, especially those displaced from work due to COVID-19, to provide paid personal assistance services to their own family members. This will allow non-family direct care workers to be redeployed for call outs or to those with the highest needs.
- c. Temporarily suspend restriction on hiring powers of attorney, representative payees, guardians, and spouses to provide paid caregiving.

## **8. Expand Access to Home Delivered Meals**

- a. Permit authorization based on self-attestation of need, instead of a comprehensive needs assessment.
- b. Extend number of meals permitted per day to three.

## **9. Extend Authorizations for Medical Supplies and Equipment**

- a. CHC MCOs should extend authorizations for incontinence supplies, gloves, wipes and other supplies; equipment such as oxygen, and nebulizers; and home delivered meals through the end of the fiscal year so that there is no disruption in access to the services should a service coordinator be unable to put in timely reauthorization.

## 10. Service Coordination Back-up

- a. Develop back up plans for service coordination if the regular service coordinator calls out.
- b. Share the back-up plan with participants as developed.
- c. Educate call centers/member services about reaching service coordinators and back up plans.

## 11. Direct Care Worker Education

Ensure that PPL and recipients who direct their own services are educated about and providing education to direct care workers regarding infection control and other items contained in the “Operations Recommendations for LTSS Providers.”

### Office of Income Maintenance

- **Suspend all Medicaid Terminations**

Request a waiver from CMS to suspend all terminations of Medical Assistance for at least the next three months to ensure that needy and low-income Pennsylvanians have health insurance during this pandemic. We urge you to follow the precedent of the PA Public Utility Commission, whose chairman last Friday issued an emergency order prohibiting all utility terminations for the duration of the Governor’s emergency declaration.

- **Expedite Applications & Allow Self-Attestation**

Instruct CAO workers to expedite any MA application that mentions COVID-19 as a reason for the MA application. Modify verification rules by enrolling individuals based on self-attestation and seeking verification later.

- **Provide Flexibility Around the Five-Year Lookback Period**

For individuals applying for LTC MA, allow flexibility in verifying resources during the five-year lookback period. Given the expensive and time-consuming nature of producing many years-worth of bank statements, we ask that OIM *first* authorize HCBS and NH MA for applicants otherwise eligible and *then* assess resource-eligibility over the look-back period.

Thank you for considering these recommendations, and for the essential work that you are already doing during this crisis.

We look forward to further discussion with you and your staffs. Please contact us through Kyle Fisher ([KFisher@phlp.org](mailto:KFisher@phlp.org)) or Amy Lowenstein ([ALowenstein@phlp.org](mailto:ALowenstein@phlp.org)).

Sincerely,

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