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February 9, 2021

Jackie Glaze
Deputy Director, Medicaid & CHIP Operations Group
Centers for Medicaid and CHIP Services (CMCS)

Dear Ms. Glaze:

The Rhode Island Executive Office of Health and Human Services (EOHHS) would like to request temporary flexibilities under Section 1135 of the Act due to the state's commitment to responding to the COVID-19 Public Health Emergency. EOHHS would like to request an effective date of March 1, 2020 for the requests outlined below.

EOHHS previously requested the flexibility to temporarily extend the timeframe to reinstate services and benefits to an individual who files a fair hearing request under 42 C.F.R. § 431.221(d). Under 42 C.F.R. § 431.231(a), states have the option to reinstate services if a beneficiary requests a fair hearing not more than 10 days after the date of action (e.g., the date of termination). Under section 1135(b)(5) of the Act, EOHHS would like to request to further extend this timeframe so that it may reinstate services and benefits for beneficiaries who request a fair hearing more than 10 days after the date of action, but not to exceed the time permitted for beneficiaries to request a fair hearing. EOHHS will ensure reinstatement of the individual's services and benefits as quickly as practicable.

Additionally, EOHHS had requested a waiver under section 1135 of the Act to modify the timelines established for appeals and grievance requirements for Medicaid managed care outlined in 42 C.F.R. Part 438, Subpart F. EOHHS was made aware that Section 1135 of the Act does not provide authority to waive appeal and grievance requirements or waive timelines and deadlines; however, does provide authority to modify timeframes for required activities during an emergency period under section 1135(b)(5) of the Act.

Therefore, EOHHS would like to request modification of the timeframe under 42 C.F.R. §438.420(a)(i) to allow the Medicaid managed care plan to continue benefits if requested within the current 10-day time frame or reinstate benefits for the enrollee when the individual requests continuation of benefits between 11 and 30 days, if the managed care plan has not yet made a decision on the appeal and the State fair hearing is pending. This modification would only apply through the end of the COVID-19 Public Health Emergency. The managed care plan will not seek reimbursement or payment for the additional days of services furnished during this period (aside from otherwise applicable cost sharing if any) from the enrollee.

EOHHS appreciates CMS' partnership and looks forward to continuing to work together to achieve the mutual goal of protecting the health and well-being of Rhode Islanders. If you would like to discuss this request, please contact Melody Lawrence, melody.lawrence@ohhs.ri.gov.

Sincerely,

Womazetta Jones

Secretary, Rhode Island Executive Office of Health and Human Services