

**STATE OF RHODE ISLAND  
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**

**3/16/2020 PUBLIC NOTICE OF RHODE ISLAND COVID-19 1115 DEMONSTRATION  
WAIVER REQUEST**

In accordance Rhode Island General Laws 42-35, notice is hereby given that the Rhode Island Executive Office of Health and Human Services (EOHHS) has submitted to the Centers for Medicare and Medicaid Services (CMS) its request to implement a new 1115 Waiver Demonstration in response to the novel Coronavirus Disease (COVID-19) effective March 16, 2020.

**COVID-19 1115 Demonstration Waiver Request**

Ensuring access to care for Rhode Island Medicaid members is critical in responding to COVID-19. Due to the need for social distancing, EOHHS anticipates operating its Medicaid program with reduced staffing levels. Additionally, visitors to nursing homes are no longer being allowed in Rhode Island, meaning that elderly individuals do not have family assistance. EOHHS has submitted a request to implement a new 1115 Waiver Demonstration in response to COVID-19 effective March 16, 2020.

The goal of the waiver request is to ensure that Medicaid members continue to receive medically necessary Medicaid-covered services while minimizing exposure to the virus. The existing RI Comprehensive 1115 Demonstration Waiver (“Demonstration”), will remain in force unless described in this emergency 1115 request. The existing Demonstration provides federal authority for EOHHS to expand eligibility to individuals who are not otherwise Medicaid or CHIP eligible, offer services that are not typically covered by Medicaid, and use innovative service delivery systems that improve care, increase efficiency, and reduce costs. The current Demonstration expires on December 31, 2023. EOHHS intends to continue normal processes to the furthest extent possible, given its resources available during the state of emergency, and revert back to those processes in place under the existing Demonstration after the termination of the state of emergency.

**Public Comment Process**

Given that this request is intended to address an emergency, as declared by the President on March 13, 2020, EOHHS has sought an exemption from the public notice process pursuant to 42 CFR 431.416(g). To avoid additional spread of the virus, there will be no public hearings held. However, written public comments will be accepted.

The waiver request is accessible on the EOHHS website (<http://www.eohhs.ri.gov/ReferenceCenter/MedicaidStatePlanand1115Waiver.aspx>) or available in hard copy upon request (401-462-6348 or RI Relay, dial 711). Interested persons should submit data, views, or written comments by **April 15, 2020** to Melody Lawrence, Executive Office of Health and Human Services, 3 West Rd, Cranston, RI, 02920, or [Melody.Lawrence@ohhs.ri.gov](mailto:Melody.Lawrence@ohhs.ri.gov).

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## **Background and Program Description**

Ensuring access to care for our population is critical as we respond to COVID-19. The goal of the waiver request is to ensure that Medicaid members continue to receive medically necessary Medicaid-covered services while minimizing exposure to the virus. Further, due to the need for social distancing, EOHHS anticipates operating its Medicaid program with reduced staffing levels. Additionally, visitors to nursing homes are no longer being allowed in Rhode Island, meaning that elderly individuals do not have family assistance.

## **Goals and Objectives**

**Goal 1:** Prevent transmission of the novel coronavirus to workers and, in particular, to vulnerable Medicaid members. This goal will be achieved by:

- a) Limiting in-person meetings for person-centered care;
- b) Extending level of care authorizations;
- c) Modifying level of care determination assessment procedures; and
- d) Allowing reimbursement for telephone-only telehealth and non-HIPAA compliant telehealth for primary and behavioral health care

**Goal 2:** Facilitate access to COVID-19 testing and treatment while reducing the likelihood that more health care workers and beneficiaries will be exposed to the novel coronavirus. This goal will be achieved by:

- a) Covering telephone triage for COVID-19 treatment

**Goal 3:** Utilize limited staff resources to focus on the most medically fragile members from experiencing adverse health outcomes. This goal will be achieved by:

- a) Extending the time for 12-month reviews of person-centered plans; and
- b) Limiting NEMT to only those appointments that are critical to the member's health

## **Waiver and Expenditure Authorities Being Sought**

EOHHS has sought a waiver of the following requirements/expectations of CMS:

- Person-Centered Planning Process 42 CFR 441.725(a)(3) – To the extent necessary to permit the planning process to take place in writing, by telephone, and/or by video conference rather than in person.
- Person-Centered Plan Review 42 CFR 441.725(c) – To postpone for six months any service plan reviews for which the twelve (12) month review period occurs during the novel coronavirus emergency.
- Telephone-only telehealth 42 CFR 410.78 – To permit reimbursement of telephone-only primary and behavioral health care for the duration of the novel coronavirus emergency.
- Non-HIPAA compliant telehealth 45 CFR 164.308(b) – To permit the reimbursement of non-HIPAA compliant telehealth for primary and behavioral health care for the duration of the novel coronavirus emergency.

- Limitation of NEMT 42 CFR 431.53 – To permit EOHHS to limit transportation of Medicaid members in a way that ensures essential visits are maintained if a shortage of transportation providers occur.
- Extension of level of care authorizations - suspension of CMS’s expectation, stated in the Special Terms and Conditions for the State’s current 1115 waiver, Project No. 11-W-00242/1, that the State must conduct at least annually reevaluations of level of care or as specified in the approved waiver.
- Modifications to the level of care determinations - EOHHS requests suspension of CMS’s expectation that the State must conduct in-person level of care determinations for applicants or members that need institutional, home-and community-based services, and Katie Beckett.

EOHHS has requested expenditure authority, under the authority of section 1115(a)(2) of the Social Security Act (the Act) for the following:

- Telephonic triage for COVID-19 - expenditures made by EOHHS for telephonic triage for COVID-19, which are not otherwise included as matchable expenditures under section 1903 of the Act shall, for the period of the State of Emergency, be regarded as expenditures under the state’s title XIX plan.

### **Expenditure Estimates**

In light of the novel coronavirus emergency, the Demonstration will be presumed to be budget neutral. Therefore, EOHHS has requested that it not be required to provide or demonstrate budget neutrality through “without waiver” and “with waiver” expenditure data.

### **Demonstration Eligibility**

EOHHS does not anticipate that this waiver will affect enrollment in Medicaid. All current populations under the existing Rhode Island Comprehensive 1115 Waiver Demonstration will continue to be covered. Rhode Island’s Medicaid program provides an essential safety net for many Rhode Islanders. The program ensures low income and vulnerable populations have access to high quality healthcare services, mostly through Medicaid MCOs that are consistently ranked in the top ten in national NCQA rankings for Medicaid MCOs. EOHHS will continue to cover all of these eligibility groups, including categorically eligible groups (mandatory and optional), medically needy (mandatory and optional), groups that could be covered under the Medicaid State Plan but are covered under the Demonstration, and groups that are covered under the Demonstration authority.

### **Benefits**

EOHHS has identified one (1) additional benefit, telephone triage for COVID-19 treatment, that will facilitate access to COVID-19 testing and treatment while reducing the likelihood that more health care workers and beneficiaries will be exposed to the novel coronavirus. All current State Plan and Waiver services will remain in-force.

### **Cost Sharing**

There will be no cost sharing requirements for Rhode Island Medicaid members under this waiver.

## **Delivery System**

This COVID-19 emergency waiver does not include any changes to the delivery system structure that is currently in place under the existing 1115 Demonstration. All services provided through the existing Demonstration are administered through one of the following delivery systems based on their payment mechanism-capitated managed care or fee-for-service and source of case/care management.

### **Managed Care Organizations**

- RItE Care: Program for Families and Children administered by the MCOs. In addition, RItE Care includes all CHIP children as well as 90% of children in Substitute Care and 75% of Children with Special Health Care Needs (CSN). This population also includes the Extended Family Planning Program and the Pregnant Expansion Population both of which are very small populations representing less than 1% of the Medicaid population.
- Rhody Health Partners (RHP): Program for Aged, Blind and Disabled Adults (ABD) with no third-party liability (TPL) who are not eligible for long-term services and supports (LTSS). The program also enrolls adults in the new Medicaid Expansion population. The program is administered through the MCOs.
- Rhody Health Options (RHO): Program for ABD adults eligible for LTSS who may or may not have TPL. Beneficiaries will have access to home and community-based services either as an alternative to institutionalization or otherwise based on medical need. RHO is the responsible managed care entity for both institutional and HCBS services.
- RItE Smiles: Managed dental benefit program for children and young adults born on or after May 1, 2000. The program is administered through a pre-paid ambulatory health plan contract.

### **Other Care Management Programs**

- Program for All-Inclusive Care for the Elderly (PACE): PACE is subsumed under the existing section 1115 Demonstration program and will remain an option for qualifying Demonstration eligible, that is, those that meet the High and Highest level of care determinations. EOHHS assures that Demonstration participants who may be eligible for the PACE program are furnished sufficient information about the PACE program to make an informed decision about whether to elect this option for receipt of services. EOHHS will comply with all Federal requirements governing its current PACE program, and any future expansion or new PACE program in accordance with section 1934 of the Social Security Act and regulations at Part 460 of the Code of Federal Regulations.)

### **Fee-for-Service (FFS)**

- For those populations of beneficiaries that do not qualify for enrollment in managed care, they may receive services through the traditional Fee-For Service (FFS) arrangements with providers. Some populations may 'opt-out' of managed care programs and are also eligible to receive services through FFS. Self-direction beneficiaries (or, as they authorize, their families) have the option to purchase HCBS waiver like services through a self-direction service delivery system. Under this option, beneficiaries will work with the agency to develop a budget amount for services needed. The beneficiary, with the support of a fiscal intermediary, will then

be able to purchase services directly. This option is based on experience from EOHHS's 1915(c) Cash and Counseling Waiver (RI Personal Choice), 1915(c) Developmental Disabilities Waiver, and Personal Assistance Service and Supports program. Self-Direction is fully described in the Self-Direction Operations Section of the STCs.

**Marketplace Subsidies/Expansion Populations**

- Alternative Benefit Plan (ABP): Effective January 1, 2014, the New Adult Group receive benefits through the state's approved alternative benefit plan (ABP) state plan amendment (SPA), which are effective as of the date in the approved ABP SPA. Individuals in the New Adult group may receive, as a part of their ABP under this Demonstration, Expenditure Authority services such as Managed Care Demonstration Only Benefits and will be referred to as enrolled in a Qualified Health Plan (QHP).

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Womazetta Jones

Secretary, Rhode Island Executive Office of Health and Human Services