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

October 27, 2020

Kate Massey
Senior Deputy Director
Michigan Department of Health and Human Services (MDHHS)
100 South Capital Avenue
Lansing, Michigan 48909

Dear Ms. Massey:

On March 13, 2020, the President of the United States issued a proclamation that the Coronavirus Disease 2019 (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) as amended (42 U.S.C. 1320b-5). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary 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 6:00 PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. We note that the emergency period will terminate, upon termination of the public health emergency (PHE), including any extensions.

In response to the section 1115(a) demonstration opportunity announced to states on March 22, 2020, in State Medicaid Director Letter (SMDL) #20-002,[1] on June 11, 2020, Michigan submitted a request for a section 1115(a) demonstration to address the COVID-19 PHE. CMS has determined that the state's application is complete, consistent with the exemptions and flexibilities outlined in 42 CFR 431.416(e)(2) and 431.416(g).[2] CMS expects

[1] See SMDL #20-002, "COVID-19 Public Health Emergency Section 1115(a) Opportunity for States," available at https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/smd20002-1115template.docx.
[2] Pursuant to 42 CFR 431.416(g), CMS has determined that the existence of unforeseen circumstances resulting from the COVID-19 PHE warrants an exception to the normal state and federal public notice procedures to expedite a decision on a proposed COVID-19 section 1115 demonstration or amendment. States applying for a COVID-19 section 1115 demonstration or amendment are not required to conduct a public notice and input process. CMS is also exercising its discretionary authority to expedite its normal review and approval processes to render timely

that states will offer, in good faith and in a prudent manner, a post-submission public notice process, including tribal consultation as applicable, to the extent circumstances permit. This letter also serves as time-limited approval of several of the requests which were included in the state's request. With this letter, these requests will be approved as an amendment under the "Michigan 1115 Pathway to Integration" section 1115(a) demonstration (Project Number 11-W-00305/5) and which are hereby authorized retroactively from March 1, 2020, through the date that is 60 days after the end of the PHE (including any renewal of the PHE).

CMS has determined that the COVID-19 Public Health Emergency amendment to the Michigan 1115 Pathway to Integration demonstration – including the flexibilities detailed in the enclosed Attachment F – is necessary to assist the state in delivering the most effective care to its beneficiaries in light of the COVID-19 PHE. The demonstration amendment is likely to assist in promoting the objectives of the Medicaid statute because it is expected to help the state furnish medical assistance in a manner intended to protect, to the greatest extent possible, the health, safety, and welfare of individuals and providers who may be affected by COVID-19.

In addition, in light of the unprecedented emergency circumstances associated with the COVID-19 pandemic and consistent with the President's declaration detailed above – and in consequence of the time-limited nature of this demonstration amendment – CMS did not require the state to submit budget neutrality calculations for this COVID-19 PHE amendment to the Michigan 1115 Pathway to Integration demonstration. In general, CMS has determined that the costs to the federal government are likely to have been otherwise incurred and allowable. Michigan will still be required to track demonstration expenditures and will be expected to evaluate the connection between those expenditures and the state's response to the PHE, as well as the cost-effectiveness of those expenditures. For similar reasons, and due to the highly limited scope of the changes under the amendment, CMS did not require revised special terms and conditions (STC).

Requests CMS is Approving at this Time

The state currently has expenditure authority to provide residential treatment for individuals with substance use disorder (SUD), and time-limited expenditure authority for 1915(i)-like services. The state has requested flexibilities related to the 1915(i) like services expenditure authority during the PHE.

This letter only addresses requests that CMS is approving at this time. Consistent with the flexibilities described in the SMDL #20-002 and additional flexibilities, CMS is approving the expenditures, with associated requirements, for individuals receiving 1915(i)-like home and community based (HCBS) services as described in Attachment F, starting March 1, 2020, and ending 60 days post-PHE.

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decisions on state applications for COVID-19 section 1115 demonstrations or amendments. CMS will post all section 1115 demonstrations approved under this COVID-19 demonstration opportunity on the Medicaid.gov website.

Monitoring and Evaluation Requirements

The state must submit an evaluation design to CMS within 60 days of the demonstration amendment approval. CMS will provide guidance on an evaluation design specifically for the expenditure authorities approved for the COVID-19 emergency, including any amendments. The state is required to post its evaluation design to the state's website within 30 days of CMS approval of the evaluation design, per 42 CFR 431.424(e).

The state will test whether and how the approved expenditure authorities affect the state's response to the public health emergency. To that end, the state will use research questions that pertain to the approved expenditure authorities. The evaluation will also assess cost-effectiveness by tracking administrative costs and health services expenditures for demonstration beneficiaries and assessing how these outlays affected the state's response to the public health emergency.

The state is required to submit a final report. The final report will consolidate monitoring and evaluation reporting requirements for this demonstration authority. The state must submit this final report no later than one year after the end of the COVID-19 section 1115 demonstration authority. The final report will capture data on the demonstration implementation, lessons learned, and best practices for similar situations. The state will be required to track separately all expenditures associated with this demonstration, including but not limited to, administrative costs and program expenditures. CMS will provide additional guidance on the structure and content of the final report. Should the approval period of these demonstration authorities exceed one year, for each year of the demonstration that the state is required to complete per the annual report required under 42 CFR 431.428(a), the state may submit that information in the Final Report.

Approval of this demonstration amendment is subject to the limitations specified in the flexibilities listed in Attachment F and the previously approved expenditure authorities and STCs. The state may deviate from its Medicaid state plan requirements only to the extent that the requirements have been specifically identified as not applicable for the demonstration as specified in the list of approved authorities. This approval is conditioned upon continued compliance with the previously approved STCs which set forth in detail the nature, character and extent of anticipated federal involvement in the project.

The award is subject to CMS receiving written acceptance of this award within 15 days of the date of this approval letter. Your project officer is Ms. April Wiley. Ms. Wiley is available to answer any questions concerning implementation of the state's section 1115(a) demonstration amendment and her contact information is as follows:

Centers for Medicare & Medicaid Services
Center for Medicaid and CHIP Services
Mail Stop: S2-25-26
7500 Security Boulevard
Baltimore, Maryland 21244-1850
Email: april.wiley@cms.hhs.gov

We appreciate your state's commitment to addressing the significant challenges posed by the COVID-19 pandemic and we look forward to our continued partnership on the Michigan 1115 Pathway to Integration section 1115(a) demonstration. If you have any questions regarding this approval, please contact Ms. Judith Cash, Director, State Demonstrations Group, Center for Medicaid and CHIP Services, at (410) 786-9686.

Sincerely,

Anne Marie Costello
Acting Deputy Administrator and Director

Enclosure

cc: Keri Toback, State Monitoring Lead, Medicaid and CHIP Operations Group

Attachment F- – Time-limited Expenditure Authorities and Associated Requirements for State's Response to COVID-19 Public Health Emergency (PHE)

These authorities are necessary to assist the state in delivering the most effective care to its beneficiaries in light of the COVID-19 PHE. The demonstration amendment is likely to assist in promoting the objectives of the Medicaid statute because it is expected to help the state furnish medical assistance in a manner intended to protect, to the greatest extent possible, the health, safety, and welfare of individuals and providers who may be affected by COVID-19. The expenditure authorities provided via this demonstration amendment assist the state in achieving these goals.

1. **Expedited Eligibility for Long-Term Care Services and Supports (LTSS).** Expenditures to allow for self-attestation or alternative verification of individuals' eligibility (income/assets) and level of care to qualify for LTSS. This authority allows an individual to self-attest to income or assets. The individual may remain eligible until such time that the state verifies that the individual has income or assets greater than what is allowable under the Medicaid state plan. The state may also accept self-attestation of level of care (LOC) requirements. The individual may receive the LTSS services up until the state verifies that the individual does not meet LOC requirements. This authority allows the state to: a) delay the need for income and asset verification for one year, and b) delay the need for a level of care assessment for one year.

2. **LTSS.** Expenditures for 1905(a) LTSS services for impacted individuals even if services are not timely updated in the plan of care, or are delivered in alternative settings for the period of the public health emergency. The State defines alternative settings as those which would have been otherwise-approvable via 1915(c), Appendix K (e.g. hotels, shelters, schools and churches).

3. **Home and Community-Based Services (HCBS) Rates.** Expenditures for the state to pay higher rates for 1915(i)-like HCBS providers for 1915(i)-like HCBS services provided in accordance with Section 1902(a)(30)(A) in order to maintain capacity to address the needs of individuals who require Medicaid services during the PHE. The amount of the increase in payment rates to providers and the effective time periods will be determined by the Michigan Department of Health and Human Services (MDHHS) and paid to the prepaid inpatient health plans (PIHP) for these populations. The rate increase will not exceed 50 percent of the currently approved rates.

4. **Functional Assessments.** Expenditures to allow the state to temporarily reduce or delay the need for states to conduct functional assessments to determine LOC for beneficiaries needing 1915(i)-like services. This authority allows the state to delay the need for a functional assessment and LOC determination for one year, and for reassessments to be delayed one year.

5. **Payment for Supports in Alternative Settings.** Expenditures to allow payment for Personal care, Community living, behavioral and communication supports (e.g., services to promote activities of daily living and instrumental activities of daily living), not

otherwise provided in that setting, to support individuals in an acute care hospital or short-term institutional setting, when MDHHS identifies that no other alternatives are available, and an institution or hospital is the only setting that service may be offered to meet an individual's health and safety needs. Services provided will not be duplicative of hospital or short-term institutional services provided in those settings.

6. **Person-Centered Planning.** Expenditures to allow for modification of the person-centered planning process. Person-Centered Service Plans that are due to expire within the next 60days require case management contact to the participant using allowable remote contact methods to verify with the participant or representative that the current assessment and services, including providers, remain acceptable and approvable for the upcoming year. The state will verify by obtaining electronic signatures/or electronic verification via secure email consent from service providers and the individual or representative, in accordance with the state's Health Insurance Portability and Accountability Act (HIPAA) requirements The state will ensure the service plan is modified to allow for additional supports/and or services to respond to the COVID-19 pandemic. The specificity of such services including amount, duration and scope will be appended as soon as possible to ensure that the specific service is delineated accordingly to the date it began to be received. The care coordinator must submit the request for additional supports/services no later than 30 days from the date the service begins.

7. **Telehealth.** Expenditures to allow for modifications of the following processes for telehealth:
   - Allow an extension for reassessments and reevaluations for up to one year past the due date.
   - Allow the option to conduct evaluations, assessments, and person-centered service planning meetings virtually/remotely in lieu of face-to-face meetings.
   - Allow an electronic method of signing off on required documents such as the person-centered service plan, consent for treatment, and releases of information.
   - Accept verbal/electronic consent documented by the PIHP or community mental health services program (CMHSP) as a method of signing off on required documents such as the person-centered service plan, consent for treatment, and releases of information with the understanding that written consent will be obtained as soon as feasible to validate consent.

8. **Quality Reviews.** Expenditures to suspend the collection of data for performance measures other than those identified for the Health and Welfare assurance and notes that as a result the data will be unavailable for this time frame in ensuing reports due to the circumstances of the pandemic.

9. **Incident Reporting.** Expenditures to allow for entry of incidents into the Incident Reporting System outside of typical timeframes in instances in which staff shortages due to COVID-19 occur, consistent with the states identified transition plan. Response to incidents will not be impacted.

10. **Evaluation Design.** The state must submit an evaluation design to CMS within 60 days of the demonstration amendment approval. CMS will provide guidance on an evaluation design specifically for the expenditure authorities approved for the COVID-19 emergency, including any amendments. The state is required to post its evaluation design to the state's website within 30 days of CMS approval of the evaluation design, per 42 CFR 431.424(e).The state will test whether and how the approved expenditure authorities affect the state's response to the public health emergency. To that end, the state will use research questions that pertain to the approved expenditure authorities. The evaluation will also assess cost-effectiveness by tracking administrative costs and health services expenditures for demonstration beneficiaries and assessing how these outlays affected the state's response to the public health emergency.