

March 27, 2020

***Via Email:***

Judith Cash  
Director, State Demonstrations Group  
Center for Medicaid and CHIP Services (CMCS)  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850  
[Judith.Cash@cms.hhs.gov](mailto:Judith.Cash@cms.hhs.gov)

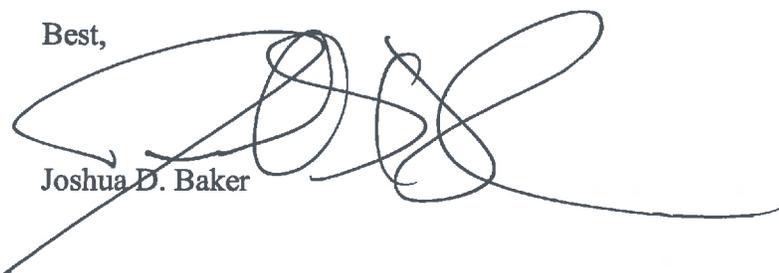
Dear Ms. Cash,

Please find enclosed the State of South Carolina's COVID-related 1115 Demonstration Waiver, which aims to expand South Carolina's civilian inpatient hospital capacity by removing the financial disincentive for state correctional facilities to treat Medicaid-eligible, COVID-positive or suspected inmates in a correctional healthcare setting as opposed to a civilian healthcare setting. As you know, federal financial participation (FFP) is not allowed for services provided to inmates of correctional facilities, except when such an inmate is treated in an inpatient capacity for at least 24 hours- commonly referred to as the "24-hour rule." South Carolina is requesting FFP be made available for eligible inmates when inpatient care is provided in a medical facility that is under the control of a state correctional agency.

This waiver does not seek to expand Medicaid eligibility to inmates who are not currently eligible, to modify the benefits available to Medicaid beneficiaries, or remove any of the medical necessity or level of care requirements that currently apply. Rather, we are seeking an easing of site-of-service restrictions based on the nature of a medical facility in which an inmate receives care. This is consistent with requests the state has made in its 1135 waiver application to reimburse for services in alternate sites that are put into place temporarily to handle expected surges in inpatient utilization as part of the COVID-19 pandemic.

Thank you for your prompt attention to this matter, I can be reached at [Joshua.baker@scdhhs.gov](mailto:Joshua.baker@scdhhs.gov) or 803-898-2504 to address any questions or concerns.

Best,

  
Joshua D. Baker



## COVID-19 Section 1115(a) Demonstration Application Template

The State of South Carolina's Department of Health and Human Services proposes emergency relief as an affected state, through the use of section 1115(a) demonstration authority as outlined in the Social Security Act (the Act), to address the multi-faceted effects of the novel coronavirus (COVID-19) on the state's Medicaid program.

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### I. DEMONSTRATION GOAL AND OBJECTIVES

Effective retroactively to March 1, 2020, the State of South Carolina, seeks section 1115(a) demonstration authority to operate its Medicaid program without regard to the specific statutory or regulatory provisions (or related policy guidance) described below, in order to 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.

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### II. DEMONSTRATION PROJECT FEATURES

- A. Eligible Individuals:** The following populations will be eligible under this demonstration. To the extent coverage of a particular service is available for a particular beneficiary under the State plan, such coverage will be provided under the State plan and not under demonstration authority.

Check to Apply	Population
X	Current title XIX State plan beneficiaries
	Current section 1115(a)(2) expenditure population(s) eligible for/enrolled in the following existing section 1115 demonstrations: [ <i>state to identify here</i> ]

- B. Benefits:** The state will provide the following benefits and services to individuals eligible under this demonstration. To the extent coverage of a particular service is available for a particular beneficiary under the State plan, such coverage will be provided under the State plan and not under demonstration authority.

Check to Apply	Services
X	Current title XIX State plan benefits
	Others as described here: <i>[state to describe here]</i>

**C. Cost-sharing**

Check to Apply	Cost-Sharing Description
X	There will be no premium, enrollment fee, or similar charge, or cost-sharing (including copayments and deductibles) required of individuals who will be enrolled in this demonstration that varies from the state's current state plan.
	Other as described here: <i>[state to insert description]</i>

**D. Delivery System:**

Check to Apply	Delivery System Description
	The health care delivery system for the provision of services under this demonstration will be implemented in the same manner as under the state's current state plan.
X	Other as described here: [Inpatient medical facilities owned or operated by a state correctional facility otherwise excluded by 42 CFR 435.1010 may be enrolled as Medicaid providers and the services delivered in those facilities for the treatment of COVID-19 suspected or confirmed individuals otherwise eligible for Medicaid are eligible for the Federal Medical Assistance Percentage rate.]

### III. EXPENDITURE AND ENROLLMENT PROJECTIONS

#### A. Enrollment and Enrollment Impact.

- i. State projects that approximately 25,500 individuals as described in section II will be eligible for the period of the demonstration. The overall impact of this section 1115 demonstration is that these individuals, for the period of the demonstration, will continue to receive HCBS or coverage through this demonstration to address the COVID-19 public health emergency.

#### B. Expenditure Projection.

The state projects that the total aggregate expenditures under this section 1115 demonstration are \$ 4,400,000.

In light of the unprecedented emergency circumstances associated with the COVID-19 pandemic and consistent with the President’s proclamation that the COVID-19 outbreak constitutes a national emergency consistent with section 1135 of the Act, and the time-limited nature of demonstrations that would be approved under this opportunity, the Department will not require States to submit budget neutrality calculations for section 1115 demonstration projects designed to combat and respond to the spread of COVID-19. In general, CMS has determined that the costs to the Federal Government are likely to have otherwise been incurred and allowable. States will still be required to track expenditures and should evaluate the connection between and cost effectiveness of those expenditures and the state’s response to the public health emergency in their evaluations of demonstrations approved under this opportunity.

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### IV. APPLICABLE TITLE XIX AUTHORITIES

The state is proposing to apply the flexibilities granted under this demonstration opportunity to the populations identified in section II.A above.

Check to Apply	Program
X	Medicaid state plan
	Section 1915(c) of the Social Security Act (“HCBS waiver”). Provide applicable waiver numbers below:
	Section 1115(a) of the Social Security Act (i.e., existing, approved state demonstration projects). Provide applicable demonstration name/population name below:

Check to Apply	Program
	Other: <i>[State to describe here]</i>

## V. WAIVERS AND EXPENDITURE AUTHORITIES

A non-exhaustive list of waiver and expenditure authorities available under this section 1115 demonstration opportunity has been provided below. States have the flexibility to request additional waivers and expenditure authorities as necessary to operate their programs to address COVID-19. If additional waivers or expenditure authorities are desired, please identify the authority needed where indicated below and include a justification for how the authority is needed to assist the state in meeting its goals and objectives for this demonstration. States may include attachments as necessary. Note: while we will endeavor to review all state requests for demonstrations to combat COVID-19 on an expedited timeframe, dispositions will be made on a state-by-state basis, and requests for waivers or expenditure authorities in addition to those identified on this template may delay our consideration of the state's request.

### A. Section 1115(a)(1) Waivers and Provisions Not Otherwise Applicable under 1115(a)(2)

The state is requesting the below waivers pursuant to section 1115(a)(1) of the Act, applicable for beneficiaries under the demonstration who derive their coverage from the relevant State plan. With respect to beneficiaries under the demonstration who derive their coverage from an expenditure authority under section 1115(a)(2) of the Act, the below requirements are identified as not applicable. Please check all that apply.

Check to Waive	Provision(s) to be Waived	Description/Purpose of Waiver
<input type="checkbox"/>	Section 1902(a)(1)	To permit the state to target services on a geographic basis that is less than statewide.
<input type="checkbox"/>	Section 1902(a)(8), (a)(10)(B), and/or (a)(17)	To permit the state to vary the amount, duration, and scope of services based on population needs; to provide different services to different beneficiaries in the same eligibility group, or different services to beneficiaries in the categorically needy and medically needy groups; and to allow states to triage access to long-term services and supports based on highest need.

Check to Waive	Provision(s) to be Waived	Description/Purpose of Waiver
X	42 CFR 435.1010	The state proposes to waive 42 CFR 435.1009 through .1010 only to the extent that it allows an excluded facility under the control of a state correctional agency as clarified by sub regulatory guidance S&C 16-21-ALL, and that would meet the definition of a “Medical Institution” qualifying for federal financial participation, except that it is controlled by a state correctional agency, may be considered a “Medical Institution” for the purpose of receiving federal financial participation for inpatient services provided during the COVID-19 public health emergency.

**B. Expenditure Authority**

Pursuant to section 1115(a)(2) of the Act, the state is requesting that the expenditures listed below be regarded as expenditures under the state plan.

Note: Checking the appropriate box(es) will allow the state to claim federal financial participation for expenditures that otherwise would be ineligible for federal match.

Check to Request Expenditure	Description/Purpose of Expenditure Authority
	Allow for self-attestation or alternative verification of individuals’ eligibility (income/assets) and level of care to qualify for long-term care services and supports.
	Long-term care services and supports for impacted individuals even if services are not timely updated in the plan of care, or are delivered in alternative settings.
	Ability to pay higher rates for HCBS providers in order to maintain capacity.
	The ability to make retainer payments to certain habilitation and personal care providers to maintain capacity during the emergency. For example, adult day sites have closed in many states due to isolation orders, and may go out of business and not be available to provide necessary services and supports post-pandemic
	Allow states to modify eligibility criteria for long-term services and supports.
	The ability to reduce or delay the need for states to conduct functional assessments to determine level of care for beneficiaries needing LTSS.
[X]	Other: Federal financial participation for inpatient services delivered to an otherwise qualified beneficiary who is an inmate and receiving care in a medical institution under control of a state correctional agency.

**VI. Public Notice**

Pursuant to 42 CFR 431.416(g), the state is exempt from conducting a state public notice and input process as set forth in 42 CFR 431.408 to expedite a decision on this section 1115 demonstration that addresses the COVID-19 public health emergency.

**VII. Evaluation Indicators and Additional Application Requirements**

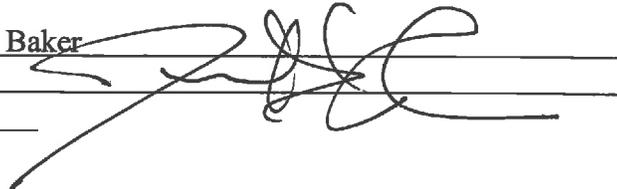
- A. Evaluation Hypothesis.** The demonstration will test whether and how the waivers and expenditure authorities affected the state’s response to the public health emergency, and how they affected coverage and expenditures.
  
- B. Final Report. This report will consolidate demonstration monitoring and evaluation requirements.** No later than one year after the end of this demonstration addressing the COVID-19 public health emergency, the state will be required to submit a consolidated monitoring and evaluation report to CMS to describe the effectiveness of this program in addressing the COVID-19 public health emergency. States will be required to track expenditures and should evaluate the connection between and cost effectiveness of those expenditures and the state’s response to the public health emergency in their evaluations of demonstrations approved under this opportunity. Furthermore, states will be required to comply with reporting requirements set forth in 42 CFR 431.420 and 431.428, such as information on demonstration implementation, progress made, lessons learned, and best practices for similar situations. States will be required to track separately all expenditures associated with this demonstration, including but not limited to administrative costs and program expenditures, in accordance with instructions provided by CMS. CMS will provide additional guidance on the evaluation design, as well as on the requirements, content, structure, and submittal of the report.

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**VIII. STATE CONTACT AND SIGNATURE**

State Medicaid Director Name: Joshua D. Baker  
Telephone Number: 803-898-2504  
E-mail Address: joshua.baker@scdhhs.gov

State Lead Contact for Demonstration Application: Joshua D. Baker  
Telephone Number: 803-898-2504  
E-mail Address: joshua.baker@scdhhs.gov

Authorizing Official (Typed): Joshua D. Baker  
Authorizing Official (Signature):   
Date: 27 MAR 2020

## PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148 (Expires 03/31/2021). The time required to complete this information collection is estimated to average 1 to 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. Your response is required to receive a waiver under Section 1115 of the Social Security Act. All responses are public and will be made available on the CMS web site. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850. \*\*\*CMS Disclosure\*\*\* Please do not send applications, claims, payments, medical records or any documents containing sensitive information to the PRA Reports Clearance Office. Please note that any correspondence not pertaining to the information collection burden approved under the associated OMB control number listed on this form will not be reviewed, forwarded, or retained. If you have questions or concerns regarding where to submit your documents, please contact Judith Cash at 410-786-9686.