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State of Rhode Island and Providence Plantations

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-16

April 6, 2020

THIRTEENTH SUPPLEMENTAL EMERGENCY DECLARATION – AUTHORIZING WAIVER AND MEDICAID STATE PLAN AMENDMENTS AND ADJUSTMENTS TO ESSENTIAL PROVIDER RATES

WHEREAS, on January 30, 2020, the COVID-19 outbreak was characterized as a Public Health Emergency of International Concern by the World Health Organization;

WHEREAS, on March 9, 2020, I declared a state of emergency due to the dangers to health and life posed by the outbreak of COVID-19;

WHEREAS, the number of presumptive and confirmed cases of COVID-19 continues to rise in Rhode Island as well as in our neighboring states;

WHEREAS, pursuant to Chapter 42-7.2-2 of the Rhode Island General Laws the Executive Office of Health and Human Services ("EOHHS") is the single state agency authorized under title XIX of the U.S. Social Security Act, 42 U.S.C. section 1396a et seq. to administer the Medicaid program, including the section 1115 Demonstration Waiver ("Waiver") and the Medicaid State Plan, and whereas pursuant to Chapter 42, section 42-12.4-7, EOHHS is authorized to implement the Waiver and Medicaid State Plan subject to certain restrictions;

WHEREAS, EOHHS's authority to administer and implement the Waiver and State Plan includes but is not limited to eligibility determinations, provider enrollment

processes, frequency and/or duration of eligibility redeterminations, level of care or service authorizations, coverage of benefits not otherwise covered by Medicaid, rate methodologies and structures for Medicaid funded services, retainer payments to Medicaid certified providers and ensuring that an individual's Medicaid funding, supports and services are available in various or different service delivery locations and modalities;

WHEREAS, pursuant to Chapter 40, sections 40-8-13.4, 40-8-19 and 40-8.9-9 and Chapter 35-17 of the Rhode Island General Laws, EOHHS, as the designated single state agency, has the authority under the above referenced statutes and through the Caseload Estimating Conference and State Budget process, in collaboration with the Office of Management and Budget (OMB), to establish and promulgate rates for the payment of certain health care and social service providers that serve the members and clients of EOHHS agencies;

WHEREAS, the escalating COVID-19 public health emergency is placing extraordinary demands on critical health care providers that provide medically necessary care for patients affected by COVID-19, while at the same time the financial stability of these providers is at risk as procedures and appointments that would otherwise provide a revenue stream must be canceled in order to accommodate anticipated COVID-19 demand or due to limitations resulting from social distancing protocols;

WHEREAS, the COVID-19 public health emergency has unexpectedly made the delivery of critical services by health and human service providers more difficult and costly, and whereas these services are necessary to keep vulnerable individuals with needs for behavioral health and long term care services and supports safe in their homes or residences so as not to further exacerbate demand on the state's hospitals;

WHEREAS, existing program and service rates do not contemplate the increased costs, changes in utilization patterns, or the need for alternative methods of care delivery resulting from the COVID-19 public health emergency, and the shortage of available direct care workers and providers poses a further challenge to the continued operation of these critically important providers;

WHEREAS, as a consequence of these developments, EOHHS will need the ability to rapidly and flexibly adjust the rates and the manner in which it pays providers of health and human services to ensure that these providers are able to continue to provide critical services to the residents of the state and its agencies; and

WHEREAS, Rhode Island General Laws § 30-15-9(e)(l) authorizes the suspension of any regulatory statute prescribing the procedures for conducting state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby order and direct the following:

1. The provisions of section 42-12.4-7(1) & (2) of the Rhode Island General Laws are hereby suspended. The EOHHS shall seek permission from the Centers for Medicaid and Medicare Services ("CMS") to implement a temporary Waiver and/or amend the existing 1115 Waiver demonstration, amend the State Plan or implement or modify any related rule or regulation.

2. The EOHHS shall implement changes to the Waiver and Medicaid State Plan. Such temporary changes may include, but are not limited to, eligibility determinations, the provider enrollment processes, the frequency and/or duration of eligibility redeterminations, level of care or service authorizations, temporary coverage of uninsured individuals, temporary coverage of benefits not otherwise covered by Medicaid, temporary rate changes for Medicaid funded services, retainer payments to Medicaid certified providers, the utilization of and enhancement in rates for telephonic and video services and outreach to persons served and patients, ensuring that an individual's Medicaid funding, supports and services remain available to them in a new or different service delivery locations or through a different service delivery modality.

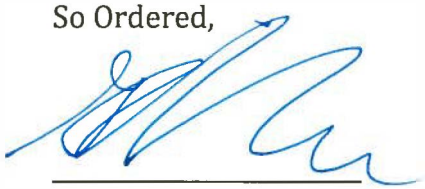
3. The EOHHS shall designate, subject to my approval, classes of health and human services providers that EOHHS determines (1) are facing extraordinary demand due to the COVID-19 public health emergency while at the same time suffering disruption to their normal course of operation; (2) are necessary to keep vulnerable individuals safe in their homes or residences in order to prevent further demands on the State's critical heath care providers; or (3) are human services providers that have been forced to respond to the unique and unanticipated circumstances of the COVID-19 pandemic by altering modalities of service delivery in ways not contemplated by their current rate structure.

4. For the designated classes of providers that I authorize and approve, EOHHS is relieved from the requirements and processes concerning changes to provider rate and payment methodologies and arrangements contained in Chapter 40, sections 40-8-13.4, 40-8-19 and 40-8.9-9 and Chapter 35-17 of the Rhode Island General Laws, subject to the review and approval of the Director of OMB, to issue temporary rates and retainer payments and adjustments, and to establish new rate and payment methodologies and arrangements to reflect the new modalities through which providers are delivering their services during the duration and aftermath of this COVID-19 emergency.

5. Any changes to the Waiver or Medicaid State Plan or temporary rates, retainer payments, or other rate and payment methodologies and arrangements established pursuant to this Order shall expire when this Order is rescinded or when the state of emergency is terminated, whichever happens first.

This Order shall go into effect immediately and shall remain in full force and effect until May 6, 2020, unless renewed, modified or terminated by subsequent Executive Order.

So Ordered,



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