



CMCS Informational Bulletin

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SUBJECT: State Plan Amendment and 1915 Waiver Process Improvements to Improve Transparency and Efficiency and Reduce Burden

On March 14th, 2017, the Department of Health and Human Services (HHS) and Centers for Medicare & Medicaid Services (CMS) issued a letter to Governors highlighting key areas for improved collaboration with states and more effective Medicaid program management. In the letter, CMS committed to engaging with states to make state plan amendment (SPA) and waiver reviews and approvals more transparent, efficient, and less burdensome. The National Association of Medicaid Directors (NAMD) also shared a set of recommendations for advancing state flexibility with CMS and identified streamlining SPA and waiver reviews as a top priority. In response, CMS is developing a four-pronged approach to increase transparency, enhance efficiency, reduce burden and address a backlog of SPAs on hold due to a request for additional information (RAI) from CMS to the state to which the state has not responded. This Informational Bulletin outlines the initial strategies CMS is adopting to implement more efficient SPA and section 1915(b) and 1915(c) waiver review processes. CMS plans to address changes to section 1115 demonstration review and approvals in separate guidance.

Background

CMS is statutorily obligated to review Medicaid and Children's Health Insurance Program (CHIP) SPAs and 1915 waiver submissions for consistency with the requirements of the Social Security Act and any applicable agency regulations. CMS is committed to working with states to process Medicaid¹ and CHIP² SPAs and waivers as efficiently as possible, in accordance with the statute and regulations. To inform the process improvement efforts, CMS analyzed various SPA and waiver processing metrics to establish baselines for measuring the success of future process improvements. In 2016, CMS approved 839 Medicaid SPAs. The majority, 64 percent, were approved within 90 days of submission.

¹ 42 CFR 430.16 requires CMS to approve, disapprove, or request additional information (RAI) on a Medicaid state plan amendment within 90 calendar days or the amendment is deemed approved. The 90-day time period (i.e., 1st clock) can be stopped only once by CMS through the written request for additional information. Upon receipt of the additional information, a second 90-day period (2nd clock) is initiated.

² 42 CFR 457.160 requires CMS to approve, disapprove or send a written request for additional information; which stops the 90-day review period, and resumes on the next calendar day after CMS receives all the requested information, within 90 calendar days after receipt of a CHIP SPA. CMS may send as many written requests for additional information as needed to obtain the complete information necessary to review the state plan or amendment; but has only one 90 calendar day review period.

Table 1 shows the median processing time for SPAs approved in calendar year 2016, including the median number of days that SPAs spent “on the clock” under review with CMS and “off the clock” pending additional information from the state. In the table below, the median number of days between SPA submission and approval includes time on the clock and time off the clock, while the median number of days under CMS review represents only time on the clock. The median number of days pending additional information from the state represents time off the clock.

Table 1. Medicaid SPA Approvals, Calendar Year 2016

Number of SPAs Approved	Median number of days between SPA submission and approval	Median number of days under CMS review	Median number of days pending additional information from the state ¹
839	82	80	90

¹ The denominator for the median number of days pending additional information from the state includes only SPAs where CMS issued a written request for additional information to the state.

Table 2 shows the median processing times for 1915(b) and (c) waiver actions approved in calendar year 2016, including the number of days spent with CMS for review and the number of days spent in pending status, awaiting additional information from the state.

Table 2. 1915 Waiver Processing Data, Calendar Year 2016

Type of Waiver	Number of Waiver Actions	Median number of days between submission and approval	Median number of days under CMS review	Median number of days pending additional information from the state
1915(b)	30 ¹	77	79	38
1915(c) Amendments	150	78	78	53
1915(c) Renewals	43	135	100	215

¹ Includes new 1915(b) waiver requests, amendments, & renewals.

One of the key drivers of SPA processing time is the length of time SPAs spend in pending status, while CMS is awaiting a response to a written request for additional information (RAI) issued from CMS to the state. There is currently a national backlog of over 350 SPAs and 1915 waiver actions on RAI, where states have not responded to requests for additional information, often for extended lengths of time. The average time that pending SPAs have been on RAI is two years, and there are SPAs that have been pending for nine years. This can delay both the approval of new SPA submissions that modify the same pages and a state’s ability to draw down funds, as states are unable to claim federal financial participation (FFP) for pending SPAs.

Developing a Solution

To begin streamlining SPA and 1915 waiver processes, CMS undertook a number of activities to better understand current processes, identify issues, and develop improvement strategies. Staff

examined available SPA and waiver processing data for 2016 and conducted an analysis of a sample of SPAs to better understand the factors impacting processing time. CMS also conducted an intensive review of the current SPA standard operating procedures to identify areas for increased consistency and enhanced efficiency. Soliciting state input has also been essential to this process – in order to ensure that any process improvement activities are comprehensive and responsive to state needs, CMS has several mechanisms for obtaining state feedback.

At the June NAMD meeting in Austin, Texas, CMS held a breakout session with states on SPA and section 1915 waiver processing. As a result of the productive conversation during this session, a joint federal-state workgroup was formed to facilitate the continuing bilateral sharing of ideas and process improvements. The federal-state workgroup began in early August, when workgroup members received a live demonstration of the new SPA functionality in the web-based system, MACPro. Workgroup members continue to meet regularly to ensure that states are able to respond to proposals that CMS is developing and offer additional novel approaches and ideas. CMS is also working with representatives from states and several National Associations to begin a conversation specific to increasing the efficiency of the section 1915(c) waiver process. Workgroup meetings will continue to be held with these stakeholders in order to share ideas and further refine the process. Additional tools and/or a streamlined process will be shared when the workgroup completes this effort.

The first actions CMS is taking to bring efficiency and consistency to the initial SPA review process are described below. Successful implementation of these strategies will require commitment from both states and CMS.

Short-Term SPA and 1915 Waiver Process Improvements

- Early SPA and Waiver Review: Effective October 1, 2017, CMS staff, including both central and regional office staff and relevant subject matter experts, began having calls with states within 15 days of receipt of each new SPA or section 1915 waiver submission. This introductory discussion allows states to review the intent of the submission and any critical timelines, which simplifies the initial CMS review, allows CMS to communicate any incomplete information, and allows for early identification of known major policy issues. This call will help expedite the review process.
- SPA and 1915 Waiver Toolkits: CMS has compiled a package of tools available to states to help develop complete SPA and section 1915 waiver submissions, including preprints, templates, checklists and other guidance. Submission of SPAs or section 1915 waiver actions without all of the necessary information hinders the review process, and use of these tools are one way to help reduce the number of incomplete submissions, which will often result in faster processing. These tools are available on a new SPA and Section 1915 Waiver Processing page on Medicaid.gov, available at: <https://www.medicaid.gov/state-resource-center/spa-and-1915-waiver-processing/index.html>. CMS intends to continue adding to the toolkits over time and will update Medicaid.gov with new tools as they become available.

- Reduce the Pending SPA Backlog: CMS developed a strategy to partner with states and reduce the backlog of pending SPAs. In the coming months, all states will receive a comprehensive list of their SPAs on RAI, and CMS will work with states to resolve these amendments in batches, beginning with the 75 oldest SPAs. CMS will collaborate with states to understand state priorities and provide technical assistance on the identified SPAs to move them towards resolution.

In an effort to reduce the SPA backlog, if a response to a request for additional information is not received from the state within 90 days of issuance, CMS may exercise the authority to initiate disapproval of the SPA; however, CMS would only initiate this process when we cannot resolve our concerns with the state or the state continues to fail to respond to the pending request for additional information. We intend to resolve these older amendments in a manner that is both timely and satisfactory to states and CMS and will continue to collaborate with states to gradually reduce the current backlog and implement new processes to prevent a future backlog of amendments on RAI.

- Expand MACPro to Additional SPA Authorities: MACPro is a web-based system for the submission, review, and disposition of SPAs. Health Home SPAs were the first to be processed through MACPro. In late August, CMS expanded the use of MACPro to include Medicaid Modified Adjusted Gross Income (MAGI)-based eligibility and administration SPAs. CMS is currently charting which additional SPA authorities will be added to MACPro. MACPro provides a number of benefits – simplified, structured SPA templates, automated workflows, and improved transparency, as states will be able to check the status of their submissions. The use of MACPro will allow states and CMS to collaborate more efficiently and effectively to process SPAs.

Addressing SPA Same Page Review

Upon SPA submission, CMS has an obligation to review the proposed changes, as well as all other provisions contained on the submitted pages, for compliance with federal statute and regulations. This review may identify state plan provisions not being modified that are contrary to federal statute, regulations, or established guidance. In 2010, CMS consulted with states and implemented a process to ensure that issues identified in provisions not integral to the SPA can be resolved through a separate process and will not delay SPA adjudication.

As stated in the 2010 guidance, when a non-compliant provision is identified in language that was not the direct subject of the SPA change, CMS will discuss the issue with the state during the early stages of the SPA review, and the state can choose to resolve the issue during the submitted SPA review or through a separate process. If the state chooses a separate process, on or before the date of SPA adjudication, CMS will issue a companion letter describing the issues related to any non-compliant provisions not resolved during the SPA review. CMS will work with the state to develop a plan and timeframe for resolving the issue and will typically delay initiating any formal compliance action when the state is demonstrating a good faith effort to comply. Additional information on this process can be found at <https://www.medicaid.gov/Federal-Policy-Guidance/downloads/SMD10020.pdf>.

In a sample taken of SPAs approved in 2016, 75 percent of SPAs that triggered a same page review were approved within 90 days of submission. As more SPAs are transitioned to the MACPro system, same page reviews will be eliminated, as MACPro enables states to submit smaller reviewable units that contain only the provisions being modified. In the interim, we are committed to working with states to ensure that no SPA approvals are delayed as the result of a same page review issue.

Next Steps for SPA and 1915 Waiver Process Improvements

In addition to the initial strategies identified in this CIB, in the coming months, CMS is planning to implement additional short and long term strategies. CMS is planning to develop additional tools for states, including standardized lists of review questions, as well as checklists for use during SPA and waiver development to ensure submissions are complete. CMS is also engaging in a longer term effort to review current business processes, obtain input from the state partners on the federal-state workgroup, and identify areas for streamlining. CMS is also continuing to expedite and leverage the MACPro systems build, which will streamline SPA reviews and provide a more collaborative, consistent and transparent review process for states.

While the requirements for CHIP SPA reviews differ from that of Medicaid SPAs, CMS staff are committed to making improvements that enhance the efficiency of both processes. The SPA and section 1915 waiver review and approval processes represent a substantial workload for both states and CMS, and we are vested in collaborating closely to identify strategies and commitments both partners can make to enhance efficiency and reduce collective burden. If you have any questions or need additional information, please contact Anne Marie Costello at AnneMarie.Costello@cms.hhs.gov or Verlon Johnson at Verlon.Johnson@cms.hhs.gov.