



**DEPARTMENT OF SOCIAL SERVICES**  
DIVISION OF MEDICAL SERVICES  
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March 26, 2020

**ATTENTION:** South Dakota Medicaid Providers

**FROM:** South Dakota Medicaid

**RE:** CMS 1135 Waiver Response

On March 19, 2020 the South Dakota Department of Social Services (DSS) requested federal authority from the U.S. Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) to provide flexibility for South Dakota's Medicaid program, including its recipients and providers during the COVID-19 pandemic through an 1135 waiver. The 1135 waiver allows the State Medicaid Agency to temporarily waive or modify certain Medicaid and Children's Health Insurance Program (CHIP) requirements to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in these programs.

On March 24, CMS responded to the DSS 1135 waiver request. CMS's response directly confirms authorization of some of the flexibilities requested. DSS will seek CMS guidance on the flexibilities that were not addressed by CMS on March 24. DSS will send additional communication as more information becomes available.

CMS's response on March 24 directly confirms the following flexibilities that were requested by DSS:

1. Suspension of Pre-Admission Screening and Annual Resident Review (PASRR) Level II assessments for 30 days

Nursing facilities should continue to send positive PASRR screens to the Long-Term Services and Supports (LTSS) Nurse Consultant in their region. If a categorical determination or exemption can be applied, the LTSS Nurse Consultant will do so and send the Level I determination to the requesting facility. If a categorical determination or exemption cannot be applied, the LTSS Nurse Consultant will inform the submitting entity that the individual with mental illness or intellectual/developmental disability may still admit to the nursing facility and a Level II review will take place as soon as resources become available. New PASRR screens, Level I, and Level II assessments are not required for residents who are transferring between nursing facilities.

The Department of Social Services does not exclude, deny benefits to, or otherwise discriminate against any person on the basis of actual or perceived race, color, religion, national origin, sex, age, gender identity, sexual orientation or disability in admission or access to, or treatment or employment in its programs, activities, or services. For more information about this policy or to file a Discrimination Complaint you may contact: Discrimination Coordinator, Director of DSS Division of Legal Services, 700 Governor's Drive, Pierre SD 57501, 605-773-3305.

ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-800-305-9673 (TTY: 711).

ACHTUNG: Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung. Rufnummer: 1-800-305-9673 (TTY: 711).

## 2. Fair Hearings

A delay of state fair hearings and appeals was granted to allow recipients up to 120 additional days to request a fair hearing. This means that South Dakota Medicaid has the discretion to give recipients up to 120 extra days to submit an appeal requesting a fair hearing on fee-for-service or eligibility decisions.

## 3. Flexibility in provider enrollment requirements

South Dakota Medicaid can enroll and reimburse certain care providers who do not hold a SD license but are licensed to practice in another state. This is effective immediately for professions whose licensing requirements vary little from state to state including medical doctors, osteopathic medicine doctors, physician assistants and nurse practitioners. South Dakota Medicaid will post enrollment instructions for providers to the provider enrollment website.

## 4. Flexibility for services provided in alternative settings

In the event a provider needs to evacuate or relocate as a result of the public health emergency, South Dakota Medicaid can continue to reimburse facilities in these situations as if services were provided at the original location. DSS, the Department of Human Services (DHS) and the Department of Health (DOH) ask that facilities notify the appropriate department immediately if they anticipate a need to evacuate and/or relocate and these agencies will work with them.

DSS will provide additional information regarding the 1135 waiver and any future CMS approvals as the information becomes available.

Up-to-date information regarding the Department of Social Services response to COVID-19 and the public health emergency can be found at <https://dss.sd.gov/keyresources/recentnews.aspx>.