LRB-6107 ✓

2019 DRAFTING REQUEST

Bill

For: **Legislative Fiscal Bureau** Drafter: **tdodge**

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Date: **4/3/2020** May Contact:

Same as LRB:

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Pre Topic:

No specific pre topic given

Topic:

Medical Assistance waivers and state plan amendments related to COVID-19 pandemic

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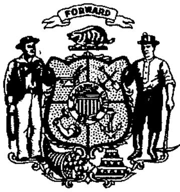
Drafting History:

Vers.	Drafted	Reviewed	Submitted	Jacketed	Required
/?	tdodge 4/3/2020				
/P1	tdodge 4/6/2020	anienaja 4/3/2020	wjackson 4/3/2020		
/P2		swinder 4/6/2020	wjackson 4/6/2020		
/P3	tdodge 4/11/2020	swinder 4/11/2020	wjackson 4/11/2020		

FE Sent For: <END>



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6107/P1
TJD:amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to create* 20.940 (7) and 49.45 (2t) (d) of the statutes; **relating to:**
2 applicability of certain legislative oversight related to the Department of
3 Health Services during the COVID-19 public health emergency.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

Legislative oversight during COVID-19 public health emergency

This bill makes inapplicable during the public health emergency declared by the federal secretary of health and human services in response to the 2019 novel coronavirus all of the following: 1) a prohibition on the Department of Health Services from requesting a waiver or a renewal, modification, withdrawal, suspension, or termination of a waiver of federal law or rules or an authorization to implement a pilot program or demonstration project without specific legislative direction; 2) a procedure under which DHS must submit such a request if it has been directed by legislation; and 3) a requirement to submit any Medical Assistance state plan amendment or proposal to submit a change to a Medical Assistance provider reimbursement rate or supplemental payment that has an expected fiscal effect of $7,500,000 or more to the Joint Committee on Finance under its passive review process before submitting it to the federal government unless the rate or payment is explicitly authorized in enacted legislation. This inapplicability under the bill applies to requests for waivers, amendments to waivers, state plan amendments, or other federal approval that are temporary in nature and are designed to respond to the 2019 novel coronavirus. Additionally, any state plan amendment that DHS

requests that involves a provider reimbursement rate increase may be submitted without complying with the current law procedure for state plan amendments only if DHS determines the rate increase may be implemented without exceeding the general purpose revenue appropriated to DHS under a specific appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.940 (7) of the statutes is created to read:

2 20.940 **(7)** APPLICABILITY DURING PUBLIC HEALTH EMERGENCY. This section does
3 not apply during the public health emergency declared under 42 USC 247d by the
4 secretary of the federal department of health and human services on January 31,
5 2020, in response to the 2019 novel coronavirus, unless the request for a waiver,
6 amendment to a waiver, or other federal approval is not temporary in nature or is not
7 designed to respond to the 2019 novel coronavirus public health emergency.

8 **SECTION 2.** 49.45 (2t) (d) of the statutes is created to read:

9 49.45 **(2t)** (d) This subsection does not apply during the public health
10 emergency declared under 42 USC 247d by the secretary of the federal department
11 of health and human services on January 31, 2020, in response to the 2019 novel
12 coronavirus, unless the state plan amendment is not temporary in nature or is not
13 designed to respond to the 2019 novel coronavirus public health emergency. The
14 department may not submit under this paragraph a state plan amendment that
15 involves a reimbursement rate increase for providers unless the department
16 determines that the rate increase may be implemented without exceeding the
17 funding appropriated under s. 20.435 (4) (b).

18 **(END)**

Barman, Mike

From: Dyck, Jon
Sent: Monday, April 06, 2020 11:05 AM
To: Dodge, Tamara
Cc: Morgan, Charlie; Bentzen, Alexandra
Subject: additional GOP draft changes

Tami,

I've attached the two waiver documents from DHS.

I also forgot to mention that they want another small change on the out-of-network charges draft (LRB 6114). Change the 250% of Medicare standard for payments to 225%.

20200403 Appendix K - FC ...

Highest Priority Waivers in th...

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Summary of Appendix K Waiver Amendment Requests for Family Care, IRIS and the Children's Long Term Care Programs

The Appendix K Emergency Preparedness and Response waiver amendment is a standalone appendix may be utilized by the state during emergency situations to request amendment to its approved waiver. It includes actions that states can take under the existing Section 1915(c) home and community-based waiver authority in order to respond to an emergency. While there are numerous flexibilities that can be requested, below are the priority requests needed for the Family Care, IRIS and Children's Long Term Care programs.

1 **Service Provisions**

1.1 Allow all waiver services and administrative requirements that that can be provided with the same functional equivalency of face to face services to occur remotely.

- This will allow waiver services to be provided through telehealth instead of face to face. Examples of services that would be allowed remotely include assessments evaluations, care planning, therapies, support and service coordination, case management, and consulting services.

1.2 Remove requirement to complete a six month progress report to reauthorize prevocational service.

- This requirement will not be met because most prevocational settings are not providing services or are not providing traditional services during the emergency and cannot report on member progress.

1.3 Remove the limitation that quotes from at least three providers must be obtained and submitted for home modifications

- Contacting applicable contractors and getting quotes will be challenging during this time.

1.4 Remove the limitation that Supportive Home Care (SHC) can't be provided in adult family homes and residential care apartment complexes.

- This would allow for temporarily expanded capacity

1.5 Remove limitation of personal/nursing services for recipients in residential care apartment complexes.

- Allows individuals who would normally be screened out of these settings due to their need for more hours of care than allowed to be able to reside in these settings. This may be needed for surge capacity.

1.6 Remove the limitation that participants cannot receive other waiver services on the same day as receiving respite.

- Allows for respite on the same day as other services. Services would not be duplicated.

1.7 Allow adult day service providers, prevocational providers and supported employment providers to provide services in alternate settings.
- While day centers are closed the staff will be able to provide direct care or remote supports to people who are now in their home or other temporary setting.

1.8 Allow up to three meals per day for home delivered meals for Family Care and IRIS Enrollees and add home delivered meals as a benefit in the Children's Long Term Support waiver to support the child and family.
- Members may have no other way to get the proper nutrition.

1.9 Remove limitation of using funds to relocate from institution or family home to an independent living arrangement.
- Allow funds to relocate people to and from different settings as necessary during COVID.
-

1.10 Allow any individual with IDD to reside in CBRF with greater than 8 beds..
- Need this flexibility to ensure capacity during the surge

1.11 Modify the scope of the child care benefit to allow for the provision of childcare payment of children under the age of 12 in the program for direct care workers and medical workers who need access to childcare during the emergency.
- This will ensure that individuals that are working during the emergency have the necessary access to childcare. Direct care workers and medical workers may need to access or increase their utilization of childcare during the emergency.

2 <u>Settings Provisions</u>

2.1 Allow for all waiver services to be provided in temporary settings including congregate settings, private residences, hotels, shelters, schools, churches, etc.
- Needed for COVID surge response when it may be necessary to isolate infected participants, react to provider shortages, etc.

2.2 Allow waiver services to be provided temporarily in an acute care hospital or in a short-term institutional stay.
- Need this to support hospital, nursing home and institutional surge staffing. Some individuals require more 1:1 care than these facilities can provide (including services to behaviorally complex individuals).

2.3 Payment may be made for waiver services provided in out of state settings.
- Individuals who have chosen to temporarily shelter with family out of state will continue to receive reimbursable waiver services.

3 <u>Provider Qualification Provisions</u>

3.1 Allow general retailers to provide assistive technology/communication aids.
- Providers of these types of aids are limited due to the "safer at home" order. Need to allow purchases from general retailers.

3.2 Allow providers certified or licensed in other states or by Medicare to perform the same or comparable services in Wisconsin.
- Individuals may need to seek services from providers in other states. For example, someone near the border of MN may need to seek services from a provider in MN due to lack of provider availability in WI.

3.3 Delay provider licensing or certification reviews.

3.4 Allow the SMA to waive provider qualifications as necessary to increase the pool of available providers.

3.5 Allow four-year background check to be delayed.
- Four year background checks due during the emergency will be completed after the emergency order is lifted.

3.6 Expand transportation providers to include individual and transportation network companies.
- Need this flexibility as public transit is closing.

3.7 Allow non-certified individuals to provide home delivered meals.
- Allow for individuals to provide this service as current providers are overwhelmed by the increased need because of the closure of congregate meal sites.

3.8 Add nursing students to provide allowable nursing services.
- Expand pool of available, qualified providers of nursing services as there is a nursing shortage.

3.9 Allow parents to be paid caregivers for their minor children in CLTS when providing a service that would otherwise have been performed and paid for by a provider.
- For services that are authorized and no provider is available parents and other related individuals may be allowed to provide services.

3.10 Allow individuals to train unpaid caregivers.
- Allow for qualified individuals to provide training to unpaid caregivers. Other providers are limited due to the increased demands in healthcare.

4 Service Delivery Contractor Provisions

4.1 Waive choice of provider provisions. While the Department wants to always maintain choice, currently the waivers require choice of providers. There is a concern that the state would be out of compliance with CMS requirements if this is not waived and during the emergency there are not enough providers to offer sufficient choice.
- There are limitations on businesses that can operate during the "safer at home" order so people do not have choice of provider in these circumstances. In addition, provider shortages may occur during the COVID-19 emergency which will limit their available choices.

4.2 Waive the managed care network adequacy requirements under 42 C.F.R. §§ 438.68 and 438.207.

- MCO will not be able to meet network adequacy requirements as many businesses are temporarily or permanently closed.

4.3 Waive requirements to complete initial and required periodic credentialing of network providers.

- Credentialing should be done during this critical period only as needed (when there is cause for concern about a particular provider).

4.4 Add a verbal and electronic method to signing off on required documents

- Program administrators are not able to obtain written signatures.

4.5 Allow the option to conduct evaluations, assessments, and person-centered service planning meetings virtually/remotely in lieu of face-to-face meetings.

- Program administrators should not be required to conduct face to face visits during this emergency.

4.6 Relax prior approval/authorization requirements.

- For example, provide flexibility to shift services (day services to supportive home care) to allow for care in the home without the administrative paperwork.

4.7 Allow for data entry of incidents into the Incident Reporting System outside of typical timeframes.

- The focus on health and safety and potential staff shortages due to COVID-19 will make timelines difficult to meet.

4.8 Waive requirement to distribute member-centered plans to essential providers.

- Program administrators are not able to comply due to "safer at home" order. They need to devote resources to assuring participant health and safety.

4.9 Allow the SMA to draw federal financing match for payments, such as hardship or supplemental payments, to stabilize and retain providers who suffer extreme disruptions to their standard business model and/or revenue streams as a result of COVID-19.

- Many critical HCBS providers, are experiencing significant business impact during the emergency due to the shift in the member service utilization and increased cost. This provision would ensure critical providers are maintained during the emergency.

4.10 Allow the SMA to waive participant liability for room and board when temporarily sheltered at non-certified/licensed facilities.

- When it is necessary for a participant to be relocated to a temporary shelter/residence, the participant should not have room and board for services he/she is not receiving in the original residence. In addition, the participant may not have a choice to which temporary shelter they are moved to and the inherent costs of that temporary shelter. The participant would then have no choice in the costs that would be allotted to

him/her and may not be able to afford those costs. In addition, participants' income could be significantly impacted by COVID-19.

4.11 Allow the SMA to pay for waiver services that are not documented in the member/participant's member-centered plan.

- There will be times that people need immediate care and the care manager may not have time to document the services in the MCP before they are rendered. Additionally, PIHPs may experience staff shortages during the surge that would make altering MCPs difficult.

4.12 Allow managed care enrollees to proceed almost immediately to a state fair hearing without having a managed care plan resolve the appeal first by permitting the SMA to modify the timeline for managed care plans to resolve appeals to one day so the impacted appeals satisfy the exhaustion requirements and give enrollees more time to request a state fair hearing

- Participants should be given more time to appeal due to the "safer at home" order. In addition, MCOs need to dedicate staff time to assuring participant health and safe rather than reviewing appeals and participant's right to appeal should not be delayed.

5 <u>Administrative Provisions</u>

5.1 Waive public notice requirements that would otherwise be applicable to waiver changes.

- Needed to expedite this request during the COVID-19 emergency.

5.2 Modify the tribal consultation timelines, to allow for consultation at the next future Tribal Health Directors meeting.

- Needed to expedite this request during the COVID-19 emergency.

5.3 Waive timelines and grant leeway for reports, required surveys, and notifications.

- During COVID-19 emergency, routine data collection (such as performance improvement projects, CMS quality report, waiver status, etc.) may need to be suspended as staff needed to focus on assuring health and safety. Therefore, the SMA's ability to produce these reports is affected. Notifications (such as the annual notice to participants of their right to disenroll from the program) is not a critical activity.

5.4 Allow the SMA to extend the certification period of level-of-care screeners.

- The testing was scheduled to occur during the "safer at home" order and could not be completed.

5.5 Allow the SMA to waive requirements related to home and community-based settings on a case by case basis in order to ensure the health, safety and welfare of affected beneficiaries under 42 C.F.R. § 441.301(c)(4).

- During the COVID-19 emergency, program administrators may not be able to comply with these requirements. (examples include, but are not limited to: each individual has privacy in their sleeping or living unit; the setting facilities individual choice regarding services and supports, and who provides them; individuals have the freedom and support to control their own schedules and activities, and have access to food at any

time; the setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting)

5.6 Any items approved by CMS for Appendix K will automatically be applicable to the State's concurrent 1915(b) waiver.

- This is needed so that the State does not need to go through the amendment process in order to align the 1915(b) waiver with items that are approved Appendix K.

6 Enrollment and Eligibility Provisions

6.1 Allow the SMA to waive enrollment or eligibility changes based on a completed functional screen resulting in a change in level-of-care.

- Additional federal funding is contingent on not terminating enrollment during the emergency.

6.2 Allow for continued enrollment in CLTS past the age of 18 and 21

- Additional federal funding is contingent on not terminating enrollment during the emergency. In addition, this will ensure continuity of care for the participant during the emergency.

6.3 Allow the SMA to suspend involuntary dis-enrollments.

- Additional federal funding is contingent on not terminating enrollment during the emergency.

Updated Section 1135 Waiver

1. **Provider Participation, Billing Requirements and Conditions for Payment**

1.1 Allow providers to receive payments for services provided to affected beneficiaries in alternative physical settings, such as mobile testing sites, temporary shelters or other non-traditional or alternative care facilities.

- **Example: There is an assisted living facility that people need to be removed from because of COVID and moved into another setting such as a hotel. Currently, the hotel is not an allowable setting. This provision would allow us to pay for services in that setting.**

1.2 Waive Pre-Admission Screening and Annual Resident Review (PASSR Level I and Level II Assessment) when members are transferred. If the nursing facility is not certain whether a Level I had been conducted at the resident's evacuating facility, a Level I can be conducted by the admitting facility during the first few days of admission as part of intake. If there is not enough information to complete a Level I, the nursing facility will document this in the case files. Level II evaluations and determinations are also not required preadmission when residents are being transferred between NFs. Residents who are transferred will receive a post admission review which will be completed as resources become available.

- **While the PASSR level screening flexibilities were included in the CMS blanket waiver, CMS has told states they must submit a request to utilize these flexibilities in their 1135 request in order to effectuate them.**

1.5 Allow hospitals who have obtained state licensure but not yet received accreditation from The Joint Commission to bill Medicaid for the duration of the public health emergency.

- **Allows Medicaid to pay facilities that have been licensed but have not gone through the Joint Commission accreditation process.**

2. **Provider Screening and Enrollment Requirement flexibilities.**

2.1 Waive payment of application fee to temporarily enroll a provider for ninety (90) days or until the termination of the novel COVID-19 declaration of emergency, whichever is longer. (42 C.F.R. § 455.460).

2.2 Waive pre-enrollment criminal background checks for Medicare-enrolled providers to temporarily enroll a provider for ninety (90) days or until the termination of the novel COVID-19 declaration of emergency, whichever is longer. (42 C.F.R. § 455.434)

2.3 Waive site visits to temporarily enroll a provider for ninety (90) days or until the termination of the novel COVID-19 declaration of emergency, whichever is longer. (42 C.F.R. § 455.432).

2.4 Cease revalidation of providers who are enrolled with Wisconsin Medicaid or otherwise directly impacted by the emergency for ninety (90) days or until the termination of the novel COVID-19 declaration of emergency, whichever is longer.

2.5 Waive the requirement that physicians and other health care professionals be licensed in the state in which they are providing services, so long as they have equivalent licensing in another state or are enrolled with Medicare (42 C.F.R.§ 455.412).

- **All of these ensure will ensure access to Medicaid services by increasing the number of providers that can provide services on a temporary basis. In addition, this allows expansion of available Telehealth providers.**

3. **Service Authorization and Utilization Controls.** Wisconsin DHS is requesting that DHHS grant temporary authority to:

   3.1 Waive prior authorization requirements for accessing covered State plan and/or waiver benefits (for example outpatient drugs pursuant to 42 U.S.C. § 1396r–8(d)(5)). Circumstances include but are not limited to: relocation or isolation of BadgerCare beneficiaries; inaccessibility of resources provided by the facilities; relocation, reassignment, or isolation (due to illness) of pharmacy staff, primary care prescribers and staff, and/or specialty prescribers and staff in the affected areas.

4. **Benefits Flexibilities**

4.6 Expand the authority under 1905(a) non-emergency transportation to allow for reimbursement of any Medicaid eligible individual, additional NEMT vendors, transportation for caregivers going to provide services to Medicaid members, and meal delivery to Medicaid members.

- **Due to the closure of public transportation, this would ensure that providers are able to get to Medicaid members to provide services and ensure that the state could draw down federal funding to pay for it.**

5. Administrative Flexibilities

5.1 Waive public notice requirements that would otherwise be applicable to state plan and waiver changes. These requirements may include those specified in 42 C.F.R. § 440.386 (Alternative Benefit Plans), 42 C.F.R. § 447.57(c) (premiums and cost sharing), and 42 C.F.R. § 447.205 (public notice of changes in statewide methods and standards for setting payment rates).

5.2 Modify the tribal consultation timelines specified in the Wisconsin Medicaid state plan, to allow for consultation at the next future Tribal Health Director Meeting.

5.3 Modify the requirement to submit the state plan amendment (SPA) by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 C.F.R. § 430.20.

5.4 Simplify program administration by allowing for temporary state plan flexibilities, such as lifting benefit limits, applying targeted rate increases for certain providers, rather than requiring the states go through the SPA submission and approval process. The State will memorialize the temporary State Plan changes in formal documentation submitted to CMS.

- **All of these flexibilities will allow DHS to move quickly to meet the needs of our members without waiting 30-60 days or more as required by federal law before implementing necessary changes (including those in the 1135 waiver).**
- **Without these flexibilities, the Department will have its hands tied on how quickly if can move in reaction to making changes to the state plan services.**

5.5 Waive timely filing requirements for billing under 42 U.S.C. § 1396a(a)(54), 42 U.S.C. § 1395cc, and 42 C.F.R. § 424.44 that will allow time for providers to implement changes to correct coding and other structural pieces built into their systems and even payer ability to adjudicate.

- **There are situations where the Department needs to allow flexibility within coding structures as the CMS correct coding guidelines did not account for certain situations. Example: In Telehealth, the evaluation and management code being used is currently defined for ongoing patient relationships. The Department is allowing this code to be used for Telehealth visits for new patients.**

6. Eligibility Flexibilities

6.1 Expand Hospital Presumptive Eligibility to include the over 65/aged & disabled population. With the onset of COVID-19 in Wisconsin, the need to expand this benefit to some of the more vulnerable populations has become necessary. Through the 1135 waiver authority, the state seeks to expand its HPE populations to include individuals over the age of 65, blind, and/or disabled by ensuring that the most vulnerable of individuals have access to care.

- **Benefits members and hospitals, making sure that those with limited financial resources are able to access Medicaid coverage quickly (for the current month) and gives them time to apply for Medicaid via the local agency.**

6.6 Allow flexibility for the submission of electronic signatures on behalf of a member by application assistors if a signature cannot be captured in person. This would be in the case of individuals who are non-merit staff assisting individuals through the application process over the phone (who normally would be doing this assistance in-person).

- **During a period of self-isolation, quarantine and social distancing allows for applications to be submitted without capturing a physical signature form the applicant or member, speeding up the application process and getting coverage in place quickly.**

7. Managed Care Flexibilities for Acute and Primary and Long-Term Care Health Maintenance Organizations (HMOs), Managed Care Organizations (MCOs) and Prepaid Inpatient Health Plans (PIHPs).

7.2 Waive MCO requirements to complete initial and periodic re-credentialing of network providers, as long as the providers meet WI Medicaid provider enrollment requirements during the declaration of emergency.

- **This waives re-credentialing of existing, qualified providers in order to ensure they can continue to provide services during the emergency.**

7.4 Require managed care organizations to extend pre-existing authorizations through which a beneficiary has previously received prior authorization through the termination of the emergency declaration.

- **The will result in getting services to members as quickly as possible without the delay of extending authorizations. Again, allowing providers (hospitals, clinics, etc.) to focus on providing care and not additional administrative processes. Not doing this may delay members getting services.**

10. Wisconsin DHS is also seeking temporary authority on behalf of our hospital providers to:

10.3 Physician referral. Waive sanctions under section 1877(g) of the Social Security Act (relating to limitations on physician referral). This will allow hospitals to compensate physicians for unexpected or burdensome work demands (e.g., hazard pay), encourage multi-state systems to recruit additional practitioners from out-of-state, and eliminate a barrier to efficient placement of patients in care settings.

10.4 Flexibility for Teaching Hospitals. Allow flexibility in how the teaching physician is present with the patient and resident including real time-audio video or access through a window.

10.6 Flexibility in Equipment Requirements. Waiver of certain equipment requirements in CMS Hospital Equipment Maintenance Requirements guidance issued in December 20, 2013 in order to maintain the health and safety of the hospitals' patients and providers.

11 Wisconsin DHS is also seeking temporary authority on behalf of our nursing home providers to:

11.3 Medical Director. 42 C.F.R. § 483.70(h)(1)(2). Create provisions allowing for additional flexibilities to allow for the utilization of physician extenders in place of Medical Directors and attending physicians, and via telehealth options.

11.4 Notice before transfer. 42 C.F.R. § 483.15(c)(3)-(6)(8). Waive notice of transfers within the facility due to medically necessary protection of COVID-19. (To separate ill and well residents within the facility)

11.5 Orientation for transfer or discharge. 42 C.F.R. § 483.15(c)(7). Waive requirement to document sufficient preparation and orientation to resident to ensure a safer and orderly transfer intra facility only. There may be a time when a resident needs to be moved immediately for their safety.

11.6 Bedhold policy. F625 483.15(d)(1)(2). Waive requirements for bedhold policy.

11.7 Regular in-service education. 42 C.F.R. § 483.35 (d)(7). Waive the requirement during this period due to the workforce reduction during the COVID crisis.

11.8 Nurse staffing. 42 C.F.R. § 483.35(g)(1)-(4). Waive nurse staffing information and posting of that information.

11.9 Drug Regimen Review. 42 C.F.R. § 483.45(c)(1)(2)(4)(5). Suspend pharmacist from going in monthly to facility to do record review. (From their office potentially).

11.10 Paid feeding assistants. 42 C.F.R. § 483.60(h)(1)-(3). Waive or lessen requirements for a program and set guidelines for training to assist with the COVID-19 crisis.

11.11 Maintenance reviews. 42 C.F.R. § 483.90. Waive the annual/quarterly screening of fire extinguishers or any other annual review of maintenance review during the COVID-19 concerns.

12 Wisconsin DHS is also seeking temporary authority on behalf of our nurse aide training and testing programs to:

12.1 42 C.F.R. § 483.152 (a)(3). Allow all clinical hours to be online simulation.

12.3 42 C.F.R. § 483.151 (b)(2) Waive the loss of Nurse Aide Training and Competency Evaluation Program (NATCEP)

12.4 42 C.F.R. § 483.160 Waive the requirements for training of paid feeding assistants.

13 Wisconsin DHS is also seeking temporary authority on behalf of our home health agencies to:

13.1 42 C.F.R. § 484.55(a). Allow home health agencies to perform certifications, initial assessments and determine patients' homebound status remotely or by record review.

14 Wisconsin DHS is also seeking temporary authority to waive the following Life Safety Codes on behalf of our hospitals, hospices, nursing homes, intermediate care facilities for individuals with intellectual disabilities, and critical access hospitals:

14.3 42 C.F.R. § 483.470 Intermediate Care Facilities for individuals with intellectual disabilities

14.4.1 Section 9.6.1.5 To ensure operational integrity, the fire alarm system shall have an approved maintenance and testing program. NFPA 101 2012

14.4.2 Section 9.7.5 All automatic sprinkler and standpipe systems required by this *Code* shall be inspected, tested, and maintained in accordance with NFPA 25.

14.4.3 Section 9.7.4.1 Portable fire extinguishers shall be inspected, and maintained in accordance with NFPA 10.

Working assumptions

- The flexibilities provided by the 1135 waiver will end as the Public Health Emergency (declared by HHS Secretary Azar) ends. Specifically, the enhanced FMAP will end on the last day of the quarter in which the federal public health emergency ends.
- Once Wisconsin submits the request to CMS, DHS expects the review and response should happen quickly as 40 states have already received these waivers.
- DHS remains limited by existing appropriated GPR, and still must follow state statutes even as this temporary waiver is approved. All of The waiver is about the ability to draw down additional FED without submitting a state plan amendment.

State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6107/P2
TJD:skw/cjs/amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to create* 20.940 (7) and 49.45 (2t) (d) of the statutes; **relating to:**
2 applicability of certain legislative oversight related to the Department of
3 Health Services during the COVID-19 public health emergency.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

Legislative oversight during COVID-19 public health emergency

This bill makes inapplicable during the public health emergency declared by the federal secretary of health and human services in response to the 2019 novel coronavirus certain legislative oversight procedures for requests for waivers, amendments to a waiver, state plan amendments, or other federal approval but only if the request is for something specifically authorized in the bill. The legislative oversight procedures that would be inapplicable are the procedures under which the department of health services must submit such a request if it has been directed by legislation and the requirement to submit any Medical Assistance state plan amendment or proposal to submit a change to a Medical Assistance provider reimbursement rate or supplemental payment that has an expected fiscal effect of $7,500,000 or more to the Joint Committee on Finance under its passive review process before submitting it to the federal government unless the rate or payment is explicitly authorized in enacted legislation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1. Nonstatutory provisions.**

2 (1) LEGISLATIVE OVERSIGHT OF THE MEDICAL ASSISTANCE PROGRAM. Sections
3 20.940 and 49.45 (2t) do not apply to a request for a waiver, amendment to a waiver,
4 state plan amendment, or other federal approval from the department of health
5 services during the public health emergency declared under 42 USC 247d by the
6 secretary of the federal department of health and human services on January 31,
7 2020, in response to the 2019 novel coronavirus, only if the request is any of the
8 following:

9 (a) Relating to the Medical Assistance program, any of the following:

10 1. Allowing providers to receive payments for services provided in alternative
11 settings to recipients affected by 2019 novel coronavirus.

12 2. Waiving preadmission screening and annual resident review requirements
13 when recipients are transferred.

14 3. Allowing hospitals who hold a state license but have not yet received
15 accreditation from the The Joint Commissioner to bill the Medical Assistance
16 program during the 2019 novel coronavirus public health emergency.

17 4. Waiving payment of the application fee to temporarily enroll a provider for
18 90 days or until the termination of the 2019 novel coronavirus public health
19 emergency, whichever is longer.

20 5. Waiving pre-enrollment criminal background checks for providers that are
21 enrolled in the Medicare program to temporarily enroll the provider in the Medical
22 Assistance program for 90 days or until the termination of the 2019 novel
23 coronavirus public health emergency, whichever is longer.

1 6. Waiving site visit requirements to temporarily enroll a provider for 90 days
2 or until the termination of 2019 novel coronavirus public health emergency,
3 whichever is longer.

4 7. Ceasing revalidation of providers who are enrolled in the Medical Assistance
5 program or otherwise directly impacted by the 2019 novel coronavirus public health
6 emergency for 90 days or until termination of the public health emergency,
7 whichever is longer.

8 8. Waiving the requirement that physicians and other health care professionals
9 be licensed in the state in which they are providing services if they have equivalent
10 licensing in another state or are enrolled in the federal Medicare program.

11 9. Waiving prior authorization requirements for access to covered state plan or
12 waiver benefits.

13 10. Expanding the authority under Section 1905 (a) of the federal Social
14 Security Act regarding nonemergency transportation to allow for reimbursement of
15 any eligible individual under the Medical Assistance program, additional vendors,
16 transportation for caregivers going to provide services to recipients, and meal
17 delivery to Medical Assistance recipients.

18 11. Waiving public notice requirements that would otherwise be applicable to
19 state plan and waiver changes.

20 12. Modifying the tribal consultation timelines specified in the Medical
21 Assistance state plan to allow for consultation at the next future tribal health
22 director meeting.

23 13. Modifying the requirement under 42 CFR 430.20 to submit the state plan
24 amendment by March 31, 2020, to obtain an effective date during the first calendar
25 quarter of 2020.

1 14. Simplifying program administration by allowing for temporary state plan
2 flexibilities rather than requiring states to go through the state plan amendment
3 submission and approval process.

4 15. Waiving timely filing requirements for billing under 42 USC 1395cc and
5 1396a (a) (54) and 42 CFR 424.44 to allow time for providers to implement changes.

6 16. Expanding hospital presumptive eligibility to include the population over
7 age 65 and disabled.

8 17. Allowing flexibility for submission of electronic signatures on behalf of a
9 Medical Assistance recipient by application assistors if a signature cannot be
10 captured in person.

11 18. Waiving requirements for managed care organizations to complete initial
12 and periodic recredentialing of network providers if the providers meet Medical
13 Assistance provider enrollment requirements during the 2019 novel coronavirus
14 public health emergency.

15 19. Requiring managed care organizations to extend preexisting
16 authorizations through which a Medical Assistance recipient has received prior
17 authorization until the termination of the 2019 novel coronavirus public health
18 emergency.

19 20. Waiving sanctions under Section 1877 (g) of the Social Security Act relating
20 to limitations on physician referral.

21 21. Allowing flexibility in how a teaching physician is present with the patient
22 and resident including real-time audio and video or access through a window.

23 22. Waiving certain equipment requirements in hospital equipment
24 maintenance requirement guidance issued on December 20, 2013, to maintain the
25 health and safety of the hospitals' patients and providers.

1 23. Creating provisions allowing for additional flexibilities to allow for the use
2 in nursing homes of physician extenders in place of medical directors and attending
3 physicians and telehealth options.

4 24. Waiving notice of transfers within a nursing home due to medically
5 necessary protection from the 2019 novel coronavirus.

6 25. Waiving requirements to document sufficient preparation and orientation
7 to residents to ensure a safer and orderly intrafacility nursing home transfer.

8 26. Waiving requirements for a nursing home bedhold policy.

9 27. Waiving the requirements for nursing home in-service education under 42
10 CFR 483.35 (d) (7).

11 28. Waiving nurse staffing information and posting of that information for
12 nursing homes.

13 29. Suspending the requirement that a pharmacist go monthly to the nursing
14 home to do record review.

15 30. Waiving or lessening requirements for a paid feeding assistant program in
16 nursing homes and setting guidelines for training to assist with the 2019 novel
17 coronavirus pandemic.

18 31. Waiving the annual and quarterly screening of fire extinguishers and any
19 other annual maintenance review for nursing homes.

20 32. Allowing all clinical hours required under 42 CFR 483.152 (a) (3) to be
21 online simulation.

22 33. Waiving under 42 CFR 483.151 (b) (2) the loss of the Nurse Aide Training
23 and Competency Evaluation Program.

24 34. Waiving the requirements under 42 CFR 483.160 for training of paid
25 feeding assistants.

1 35. Allowing home health agencies to perform certifications, initial
2 assessments, and determine homebound status remotely or by record review.
3 36. Waiving life safety codes for intermediate care facilities for individuals with
4 intellectual disabilities under 42 CFR 483.70 and for hospitals, hospices, nursing
5 homes, critical access hospitals and intermediate care facilities for individuals with
6 intellectual disabilities relating to fire alarm system maintenance and testing,
7 automatic sprinkler and standpipe system inspection, testing, and maintenance,
8 and inspection and maintenance of portable fire extinguishers.
9 (b) Relating to the home and community-based waiver programs of Family
10 Care, IRIS, and Children's Long-Term Supports, any of the following:
11 1. Allowing all waiver services and administrative requirements that that can
12 be provided with the same functional equivalency of face-to-face services to occur
13 remotely.
14 2. Removing the requirement to complete a 6-month progress report to
15 reauthorize prevocational service.
16 3. Removing the limitation that quotes from at least 3 providers must be
17 obtained and submitted for home modifications.
18 4. Removing the limitation preventing supportive home care from being
19 provided in adult family homes and residential care apartment complexes.
20 5. Removing the limitation preventing personal or nursing services for
21 recipients in residential care apartment complexes.
22 6. Removing the limitation that participants cannot receive other waiver
23 services on the same day as receiving respite care.
24 7. Allowing adult day service providers, prevocational providers, and
25 supported employment providers to provide services in alternate settings.

1 8. Allowing up to 3 meals per day for home delivered meals for Family Care and
2 IRIS program enrollees and adding home delivered meals as a benefit in the
3 Children's Long-Term Supports waiver.
4 9. Removing the limitation on using moneys to relocate individuals from an
5 institution or family home to an independent living arrangement.
6 10. Allowing any individual with an intellectual or developmental disability to
7 reside in a community-based residential facility with greater than 8 beds.
8 11. Modifying the scope of the child care benefit to allow for the provision of
9 child care payments for children under the age of 12 in the program for direct care
10 workers and medical workers who need access to child care during the emergency.
11 12. Allowing for all home and community-based waiver services to be provided
12 in temporary settings.
13 13. Allowing home and community-based waiver services to be provided
14 temporarily in an acute care hospital or in a short-term institutional stay.
15 14. Allowing payment for home and community-based waiver services
16 provided in settings outside this state.
17 15. Allowing general retailers to provide assistive technology or
18 communication aids.
19 16. Allowing providers certified or licensed in other states or enrolled in the
20 Medicare program to perform the same or comparable services in this state.
21 17. Delaying provider licensing or certification reviews.
22 18. Allowing the department of health services to waive provider qualifications
23 as necessary to increase the pool of available providers.
24 19. Allowing 4-year background checks to be delayed.

1 20. Expanding transportation providers to include individual and
2 transportation network companies.
3 21. Allowing noncertified individuals to provide home delivered meals.
4 22. Allowing nursing students to provide allowable nursing services.
5 23. Allowing parents to be paid caregivers for their minor children in the
6 Children's Long-Term Supports program when providing a service that would
7 otherwise have been performed and paid for by a provider.
8 24. Allowing for qualified individuals to provide training to unpaid caregivers.
9 25. Waiving choice of provider requirements.
10 26. Waiving the managed care network adequacy requirements under 42 CFR
11 438.68 and 438.207.
12 27. Waiving requirements to complete initial and required periodic
13 credentialing of network providers.
14 28. Adding a verbal and electronic method to signing required documents.
15 29. Allowing the option to conduct evaluations, assessments, and
16 person-centered service planning meetings virtually or remotely in lieu of
17 face-to-face meetings.
18 30. Allowing the lessening of prior approval or authorization requirements.
19 31. Allowing for data entry of incidents into the incident reporting system
20 outside of typical timeframes.
21 32. Waiving the requirement to distribute member-centered plans to essential
22 providers.
23 33. Allowing the department of health services to draw federal financing match
24 for payments, such as hardship or supplemental payments, to stabilize and retain

1 providers who suffer extreme disruptions to their standard business model or
2 revenue streams as a result of the 2019 novel coronavirus.
3 34. Allowing the department of health services to waive participant liability for
4 room and board when temporarily sheltered at noncertified facilities.
5 35. Allowing payment for home and community-based waiver services.
6 36. Allowing managed care enrollees to proceed almost immediately to a state
7 fair hearing without having a managed care plan resolve the appeal first by
8 permitting the department of health services to modify the timeline for managed
9 care plans to resolve appeals to one day so the impacted appeals satisfy the
10 exhaustion requirements and give enrollees more time to request a fair hearing.
11 37. Waiving public notice requirements that would otherwise be applicable to
12 waiver changes.
13 38. Modifying the tribal consultation timelines to allow for consultation at the
14 next future tribal health directors meeting.
15 39. Waiving timelines for reports, required surveys, and notifications.
16 40. Allowing the extension of the certification period of level-of-care screeners.
17 41. Allowing the waiver of requirements related to home and
18 community-based settings on a case by case basis in order to ensure the health,
19 safety and welfare of affected beneficiaries under 42 CFR 441.301 (c) (4).
20 42. Applying any provisions under this paragraph automatically to the
21 concurrent 1915 (b) waiver.
22 43. Allowing the waiver enrollment or eligibility changes based on a completed
23 functional screen resulting in a change in level-of-care.
24 44. Allowing for continued enrollment in the Children's Long-Term Supports
25 program past the ages of 18 and 21.

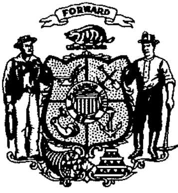
1 45. Allowing the suspension of involuntary disenrollment.

2 **(END)**

04/11/20 Instructions per Heather (Vos office)

-
- On the DHS waiver oversight I want to be really clear. (TJD)
    - The department's documents they provided (FB has) specify they do not need a SPA for the 1135 waiver items, although they're asking for a delay in the spa submission date in Item 13 page 71 which is fine.
        - We do wish to remove the need to go through the current law process for the emergency waiver items, but want to be clear that by including the date extension for the March 31 SPA submission, we are not eliminating any legislative oversight of any items contained in the SPA that are not in the list of the emergency related items we are providing this flexibility on.
        -
        - I want to confirm this legislation is not giving approval to allow these changes to be permanent or renewed at any point without going through the current law process

We don't want any of the submissions to tie these waivers to a state emergency (not a governor or secretary or local public health official declaration). We want to require the department to tie the timeline for the approved/waiver changes and flexibilities only to the federal declaration.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6107/P3
TJD:skw/cjs/amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT **relating to:** applicability of certain legislative oversight related to the
2 Department of Health Services during the COVID-19 public health emergency.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

Legislative oversight during COVID-19 public health emergency

This bill makes inapplicable during the public health emergency declared by the federal secretary of health and human services in response to the 2019 novel coronavirus certain legislative oversight procedures for requests for waivers, amendments to a waiver, or other federal approval but only if the request is for something specifically authorized in the bill. The legislative oversight procedures that would be inapplicable are the procedures under which the Department of Health Services must submit such a request if it has been directed by legislation. Any extension or renewal of the items specified in the bill must comply with legislative oversight requirements in current law as the bill specifies that DHS may implement the items specified in the bill only on a temporary basis to address the 2019 novel coronavirus pandemic for which the public health emergency was declared by the federal secretary.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1. Nonstatutory provisions.**

1 (1) LEGISLATIVE OVERSIGHT OF THE MEDICAL ASSISTANCE PROGRAM.

2 (a) Section 20.940 does not apply to a request for a waiver, amendment to a
3 waiver, or other federal approval from the department of health services submitted
4 to the federal department of health and human services during the public health
5 emergency declared under 42 USC 247d by the secretary of the federal department
6 of health and human services on January 31, 2020, in response to the 2019 novel
7 coronavirus, only if the request is any of the following, relating to the Medical
8 Assistance program:

9 1. Allowing providers to receive payments for services provided in alternative
10 settings to recipients affected by 2019 novel coronavirus.

11 2. Waiving preadmission screening and annual resident review requirements
12 when recipients are transferred.

13 3. Allowing hospitals who hold a state license but have not yet received
14 accreditation from the Joint Commission to bill the Medical Assistance program
15 during the 2019 novel coronavirus public health emergency.

16 4. Waiving payment of the application fee to temporarily enroll a provider for
17 90 days or until the termination of the 2019 novel coronavirus public health
18 emergency, whichever is longer.

19 5. Waiving pre-enrollment criminal background checks for providers that are
20 enrolled in the Medicare program to temporarily enroll the provider in the Medical
21 Assistance program for 90 days or until the termination of the 2019 novel
22 coronavirus public health emergency, whichever is longer.

23 6. Waiving site visit requirements to temporarily enroll a provider for 90 days
24 or until the termination of 2019 novel coronavirus public health emergency,
25 whichever is longer.

1 7. Ceasing revalidation of providers who are enrolled in the Medical Assistance
2 program or otherwise directly impacted by the 2019 novel coronavirus public health
3 emergency for 90 days or until termination of the public health emergency,
4 whichever is longer.
5 8. Waiving the requirement that physicians and other health care professionals
6 be licensed in the state in which they are providing services if they have equivalent
7 licensing in another state or are enrolled in the federal Medicare program.
8 9. Waiving prior authorization requirements for access to covered state plan or
9 waiver benefits.
10 10. Expanding the authority under Section 1905 (a) of the federal Social
11 Security Act regarding nonemergency transportation to allow for reimbursement of
12 any eligible individual under the Medical Assistance program, additional vendors,
13 transportation for caregivers going to provide services to recipients, and meal
14 delivery to Medical Assistance recipients.
15 11. Waiving public notice requirements that would otherwise be applicable to
16 state plan and waiver changes.
17 12. Modifying the tribal consultation timelines specified in the Medical
18 Assistance state plan to allow for consultation at the next future tribal health
19 director meeting.
20 13. Modifying the requirement under 42 CFR 430.20 to submit the state plan
21 amendment by March 31, 2020, to obtain an effective date during the first calendar
22 quarter of 2020. The department of health services shall comply with s. 49.45 (2t)
23 for any item included in the state plan amendment that is not specifically described
24 in this subsection.

1 14. Simplifying program administration by allowing for temporary state plan
2 flexibilities rather than requiring states to go through the state plan amendment
3 submission and approval process.
4 15. Waiving timely filing requirements for billing under 42 USC 1395cc and
5 1396a (a) (54) and 42 CFR 424.44 to allow time for providers to implement changes.
6 16. Expanding hospital presumptive eligibility to include the population over
7 age 65 and disabled.
8 17. Allowing flexibility for submission of electronic signatures on behalf of a
9 Medical Assistance recipient by application assistors if a signature cannot be
10 captured in person.
11 18. Waiving requirements for managed care organizations to complete initial
12 and periodic recredentialing of network providers if the providers meet Medical
13 Assistance provider enrollment requirements during the 2019 novel coronavirus
14 public health emergency.
15 19. Requiring managed care organizations to extend preexisting
16 authorizations through which a Medical Assistance recipient has received prior
17 authorization until the termination of the 2019 novel coronavirus public health
18 emergency.
19 20. Waiving sanctions under Section 1877 (g) of the Social Security Act relating
20 to limitations on physician referral.
21 21. Allowing flexibility in how a teaching physician is present with the patient
22 and resident including real-time audio and video or access through a window.
23 22. Waiving certain equipment requirements in hospital equipment
24 maintenance requirement guidance issued on December 20, 2013, to maintain the
25 health and safety of the hospitals' patients and providers.

1 23. Creating provisions allowing for additional flexibilities to allow for the use
2 in nursing homes of physician extenders in place of medical directors and attending
3 physicians and telehealth options.

4 24. Waiving notice of transfers within a nursing home due to medically
5 necessary protection from the 2019 novel coronavirus.

6 25. Waiving requirements to document sufficient preparation and orientation
7 to residents to ensure a safer and orderly intrafacility nursing home transfer.

8 26. Waiving requirements for a nursing home bedhold policy.

9 27. Waiving the requirements for nursing home in-service education under 42
10 CFR 483.35 (d) (7).

11 28. Waiving nurse staffing information and posting of that information for
12 nursing homes.

13 29. Suspending the requirement that a pharmacist go monthly to the nursing
14 home to do record review.

15 30. Waiving or lessening requirements for a paid feeding assistant program in
16 nursing homes and setting guidelines for training to assist with the 2019 novel
17 coronavirus pandemic.

18 31. Waiving the annual and quarterly screening of fire extinguishers and any
19 other annual maintenance review for nursing homes.

20 32. Allowing all clinical hours required under 42 CFR 483.152 (a) (3) to be
21 online simulation.

22 33. Waiving under 42 CFR 483.151 (b) (2) the loss of the Nurse Aide Training
23 and Competency Evaluation Program.

24 34. Waiving the requirements under 42 CFR 483.160 for training of paid
25 feeding assistants.

1 35. Allowing home health agencies to perform certifications, initial
2 assessments, and determine homebound status remotely or by record review.
3 36. Waiving life safety codes for intermediate care facilities for individuals with
4 intellectual disabilities under 42 CFR 483.70 and for hospitals, hospices, nursing
5 homes, critical access hospitals and intermediate care facilities for individuals with
6 intellectual disabilities relating to fire alarm system maintenance and testing,
7 automatic sprinkler and standpipe system inspection, testing, and maintenance,
8 and inspection and maintenance of portable fire extinguishers.
9 37. Relating to the home and community-based waiver programs of Family
10 Care, IRIS, and Children's Long-Term Supports, any of the following:
11 a. Allowing all waiver services and administrative requirements that that can
12 be provided with the same functional equivalency of face-to-face services to occur
13 remotely.
14 b. Removing the requirement to complete a 6-month progress report to
15 reauthorize prevocational service.
16 c. Removing the limitation that quotes from at least 3 providers must be
17 obtained and submitted for home modifications.
18 d. Removing the limitation preventing supportive home care from being
19 provided in adult family homes and residential care apartment complexes.
20 e. Removing the limitation preventing personal or nursing services for
21 recipients in residential care apartment complexes.
22 f. Removing the limitation that participants cannot receive other waiver
23 services on the same day as receiving respite care.
24 g. Allowing adult day service providers, prevocational providers, and
25 supported employment providers to provide services in alternate settings.

1 h. Allowing up to 3 meals per day for home delivered meals for Family Care and
2 IRIS program enrollees and adding home delivered meals as a benefit in the
3 Children's Long-Term Supports waiver.

4 i. Removing the limitation on using moneys to relocate individuals from an
5 institution or family home to an independent living arrangement.

6 j. Allowing any individual with an intellectual or developmental disability to
7 reside in a community-based residential facility with greater than 8 beds.

8 k. Modifying the scope of the child care benefit to allow for the provision of child
9 care payments for children under the age of 12 in the program for direct care workers
10 and medical workers who need access to child care during the emergency.

11 l. Allowing for all home and community-based waiver services to be provided
12 in temporary settings.

13 m. Allowing home and community-based waiver services to be provided
14 temporarily in an acute care hospital or in a short-term institutional stay.

15 n. Allowing payment for home and community-based waiver services provided
16 in settings outside this state.

17 o. Allowing general retailers to provide assistive technology or communication
18 aids.

19 p. Allowing providers certified or licensed in other states or enrolled in the
20 Medicare program to perform the same or comparable services in this state.

21 q. Delaying provider licensing or certification reviews.

22 r. Allowing the department of health services to waive provider qualifications
23 as necessary to increase the pool of available providers.

24 s. Allowing 4-year background checks to be delayed.

1 t. Expanding transportation providers to include individual and
2 transportation network companies.
3 u. Allowing noncertified individuals to provide home delivered meals.
4 v. Allowing nursing students to provide allowable nursing services.
5 w. Allowing parents to be paid caregivers for their minor children in the
6 Children's Long-Term Supports program when providing a service that would
7 otherwise have been performed and paid for by a provider.
8 x. Allowing for qualified individuals to provide training to unpaid caregivers.
9 y. Waiving choice of provider requirements.
10 z. Waiving the managed care network adequacy requirements under 42 CFR
11 438.68 and 438.207.
12 za. Waiving requirements to complete initial and required periodic
13 credentialing of network providers.
14 zb. Adding a verbal and electronic method to signing required documents.
15 zc. Allowing the option to conduct evaluations, assessments, and
16 person-centered service planning meetings virtually or remotely in lieu of
17 face-to-face meetings.
18 zd. Allowing the lessening of prior approval or authorization requirements.
19 ze. Allowing for data entry of incidents into the incident reporting system
20 outside of typical timeframes.
21 zf. Waiving the requirement to distribute member-centered plans to essential
22 providers.
23 zg. Allowing the department of health services to draw federal financing match
24 for payments, such as hardship or supplemental payments, to stabilize and retain

1 providers who suffer extreme disruptions to their standard business model or
2 revenue streams as a result of the 2019 novel coronavirus.

3 zh. Allowing the department of health services to waive participant liability for
4 room and board when temporarily sheltered at noncertified facilities.

5 zi. Allowing payment for home and community-based waiver services that are
6 not documented in the recipient's plan.

7 zj. Allowing managed care enrollees to proceed almost immediately to a state
8 fair hearing without having a managed care plan resolve the appeal first by
9 permitting the department of health services to modify the timeline for managed
10 care plans to resolve appeals to one day so the impacted appeals satisfy the
11 exhaustion requirements and give enrollees more time to request a fair hearing.

12 zk. Waiving public notice requirements that would otherwise be applicable to
13 waiver changes.

14 zl. Modifying the tribal consultation timelines to allow for consultation at the
15 next future tribal health directors meeting.

16 zm. Waiving timelines for reports, required surveys, and notifications.

17 zn. Allowing the extension of the certification period of level-of-care screeners.

18 zo. Allowing the waiver of requirements related to home and community-based
19 settings on a case by case basis in order to ensure the health, safety and welfare of
20 affected beneficiaries under 42 CFR 441.301 (c) (4).

21 zp. Applying any provisions under this paragraph automatically to the
22 concurrent 1915 (b) waiver.

23 zq. Allowing the waiver enrollment or eligibility changes based on a completed
24 functional screen resulting in a change in level-of-care.

1 zr. Allowing for continued enrollment in the Children's Long-Term Supports
2 program past the ages of 18 and 21.

3 zs. Allowing the suspension of involuntary disenrollment.

4 (b) The department of health services may implement any of the items specified
5 in par. (a) only on a temporary basis to address the 2019 novel coronavirus pandemic
6 for which the public health emergency described in par. (a) is declared, and any
7 extension or renewal of the items in par. (a) shall comply with ss. 20.940 and, if
8 applicable, 49.45 (2t).

9 **(END)**