




State of Vermont
Department of Vermont Health Access
Office of the Commissioner
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Agency of Human Services

TO: The Vermont General Assembly

FROM: Cory Gustafson, Commissioner 

DATE: April 3, 2020

The Department of Vermont Health Access has learned that a recent commentary published in VT Digger may have produced questions regarding Vermont Medicaid's actions following the Governor of Vermont declaring a State of Emergency in the State of Vermont and the President of the United States declaring a National Emergency. As a result, the Department wanted to ensure that all members of the Vermont General Assembly have the information necessary to answer any potential constituent inquiries.

Immediately following the President of the United States declaring a National Emergency and the Secretary of the United States Department of Health and Human Services subsequently invoking authority to waive or modify certain requirements of section 1135 of the Social Security Act to mitigate the consequences of the COVID-19 pandemic, Department of Vermont Health Access staff began working to implement flexibilities in the administration of the Vermont Medicaid program to ensure sufficient health care services are available to meet the needs of Medicaid members and to ensure that health care providers that furnish such services in good faith may be reimbursed for services, absent any determination of fraud or abuse. Beyond those strategies proposed by K. Johnson in her submitted Commentary to VT Digger, Vermont Medicaid has already **implemented additional strategies to respond to the State of Emergency produced by COVID-19, such as establishing a process for providing financial assistance for providers experiencing financial hardship as a result of the Emergency as of March 27, 2020**,¹ and by having fixed, prospective payments established (implemented under ongoing health care payment and delivery system reform efforts) for entities participating with the Accountable Care Organization, OneCare Vermont, and for designated agencies/specialized service agencies providing adult and children's mental health services through the Agency of Human Services, that provide a secure source of funds during this time.²

¹ <https://dvha.vermont.gov/sites/dvha/files/documents/News/COVID-19%20Medicaid%20Retainer%20%26%20Process%2003.27.2020.pdf>

² In order to address provider administrative burden during the Emergency, the Department's Program Integrity unit has suspended requests for documentation in case reviews and the Department's Oversight and Monitoring unit is acting in alignment with notification from the Centers for Medicare and Medicaid Services (CMS) regarding the Payment Error Rate Measurement (PERM) program, including that CMS is suspending all improper payment-related engagement/communication or data requests to providers and state agencies until further notice (e.g. calls and communications regarding existing PERM correction action plans). CMS is also exercising its enforcement discretion to adopt a temporary policy of relaxed enforcement regarding activities related to the Medicaid Eligibility Quality Control (MEQC) program until further notice.



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K. JOHNSON IDENTIFIED MEDICAID STRATEGY IN APRIL 1, 2020 COMMENTARY ³	CURRENT VERMONT MEDICAID STATUS
<p>Eliminate cost-sharing for COVID-19 testing for Medicaid members based on federal prohibition.</p>	<p>Status: Implemented on March 19, 2020, effective retroactively to March 1, 2020.⁴ Prior to the Emergency, Vermont Medicaid required cost-sharing for outpatient hospital services, some dental services, and for prescriptions. On March 18, 2020, Vermont Medicaid waived all co-payments for outpatient hospital services to ensure that any co-payments related to testing and/or treatment for the novel coronavirus and COVID-19 would be waived for Medicaid members. This policy change was effective retroactively to March 1, 2020. Additionally, effective for March 1, 2020, Vermont Medicaid waived co-payments for medications that may be used to treat the symptoms of COVID-19, including antihistamines, cough suppressants, anti-febrile/analgesic medications, cough and cold combination products, inhalers, etc.⁵</p>
<p>Submit Section 1135 Waiver Request to CMS</p>	<p>The State of Vermont’s Section 1135 flexibilities request was submitted on March 23, 2020 in order to address issues and challenges for health care system delivery in all counties of Vermont as a result of the COVID-19 pandemic including: ⁶ 1). Temporarily suspend Medicaid fee-for-service prior authorization requirements for imaging, DME Supplies (except imminent harm codes), Dental, and Orthodontia;</p>

³ <https://vtdigger.org/2020/04/01/kay-johnson-medicaid-is-a-critical-part-of-the-covid-19-response/>

⁴ <https://dvha.vermont.gov/sites/dvha/files/documents/News/Vermont%20Medicaid%20Waives%20Hospital%20Outpatient%20Copayments.pdf>

⁵ <https://dvha.vermont.gov/sites/dvha/files/documents/COVID19%20UPDATE.pdf>

⁶ <https://www.medicaid.gov/state-resource-center/disaster-response-toolkit/federal-disaster-resources/entry/54091>



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- 2). Extend pre-existing authorizations for which a Medicaid member has previously received prior authorization through the end of the public health emergency;
- 3). Suspend pre-admission screening and annual resident review Level 1 and Level II assessments for 30 days;
- 4). Temporarily delay scheduling of Medicaid fair hearings and issuing fair hearing decisions during the Emergency (CMS approved enrollees to have more than 90 days, up to an additional 120 days, for an eligibility or fee for service appeal, to request a fair hearing and modification of the timeline for resolving appeals).
- 5). Provider Enrollment:
 - authorization to provisionally, temporarily enroll out-of-state providers who are enrolled with another State Medicaid Agency or Medicare for the duration of the Public Health Emergency; and
 - reimbursement of otherwise payable claims from out-of-state providers not enrolled in Vermont Medicaid, pursuant to established criteria being met, during the duration of the Emergency.
 - waive certain screening requirements to support temporary provider enrollment for the duration of the Emergency.
- 6). Provision of Services in Alternative Settings: allows facilities, such as nursing facilities, intermediate care facilities for individuals with intellectual and developmental disabilities, psychiatric residential treatment facilities, etc. to be fully reimbursed for services rendered to an unlicensed facility during the Emergency due to an emergency evacuation or other need to relocate residents where the placing facility continues to render services.



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	<p>7.) Reporting and Oversight:</p> <ul style="list-style-type: none"> • Modify deadlines for OASIS and Minimum Data Sets (MDS) assessments and transmission. • Suspend 2-week aide supervision requirements by a registered nurse for home health agencies. • Suspend supervision of hospice aides by a registered nurse over 14 days' requirement for hospice agencies.
<p>Extend Medicaid coverage to more people: 1). Quickly expand Medicaid eligibility to the uninsured, including the homeless and those recently unemployed.</p>	<p>Status: Implemented on March 20, 2020, effective immediately. The State of Vermont is temporarily waiving financial verifications required for those seeking to enroll in health insurance (meaning, the State is making it easier to enroll in Vermont Medicaid during the Emergency), extending out coverage periods until after the Emergency ends (meaning that the State of Vermont will not be reviewing Medicaid enrollees to ensure they continue to meet eligibility requirements during the Emergency), and suspending certain terminations of health insurance (meaning that the State will not be ending Medicaid coverage during the Emergency unless the member requests it) in order to preserve continuous health care coverage during the Emergency.⁷ Importantly, for Medicaid, eligible Vermonters can continue to apply for and enroll in Medicaid <u>at any time</u>. This has always been in effect.</p> <p>Status: In process The State of Vermont is electing to provide Medicaid coverage for uninsured individuals of FDA-approved testing needed to detect or diagnose COVID-19, the administration of that testing, and</p>

⁷ <https://dvha.vermont.gov/covid-19>



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	<p>associated medical visit. The State is working diligently to implement this coverage expansion.</p> <p>Specific to Vermont’s efforts to provide coverage for uninsured individuals of FDA-approved testing needed to detect or diagnose COVID-19, the administration of that testing, and associated medical visit.</p> <ul style="list-style-type: none"> a. Under Families First, Vermont is electing this as optional coverage group, however Families First does not cover the costs of treatment if someone does have COVID-19. b. VT has sought 1115 expenditure authority to extend coverage of uninsured individuals to include COVID-related treatment; however, CMS has informed Vermont that this will not be allowed due to providing funding available through Families First to address uninsured treatment.
<p>Extend Medicaid coverage to more people: 2). Optimize capacity for online application and enrollment, as well as setting up “presumptive eligibility” at the hospital.</p>	<p>Status: Implemented on March 20, 2020, effective immediately. The State of Vermont is temporarily waiving financial verifications required for those seeking to enroll in health insurance (meaning, the State is making it easier to enroll in Vermont Medicaid during the Emergency), extending out coverage periods until after the Emergency ends (meaning that the State of Vermont will not be reviewing Medicaid enrollees to ensure they continue to meet eligibility requirements during the Emergency), and suspending certain terminations of health insurance (meaning that the State will not be ending Medicaid coverage during the Emergency unless the</p>



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	<p>member requests it) in order to preserve continuous health care coverage during the Emergency.⁸</p> <p>Importantly, for Medicaid, eligible Vermonters can continue to apply for and enroll in Medicaid <u>at any time</u> through multiple modalities. This has always been in effect.</p>
<p>Maintaining coverage during the Emergency: Ensure continuous enrollment, without the need to reapply. People enrolled and those with an eligibility appeal pending should not be terminated until the end of the month when the emergency period ends.</p>	<p>Status: Implemented on March 20, 2020, effective immediately. The State of Vermont is temporarily waiving financial verifications required for those seeking to enroll in health insurance (meaning, the State is making it easier to enroll in Vermont Medicaid during the Emergency), extending out coverage periods until after the Emergency ends (meaning that the State of Vermont will not be reviewing Medicaid enrollees to ensure they continue to meet eligibility requirements during the Emergency), and suspending certain terminations of health insurance (meaning that the State will not be ending Medicaid coverage during the Emergency unless the member requests it) in order to preserve continuous health care coverage during the Emergency.⁹ Eligibility appeals will generally not be resolved until after the Emergency provided the appealing member has continuing benefits.¹⁰ All of these flexibilities are applicable to long-term care (LTC) as well as community Medicaid.</p>

⁸ <https://dvha.vermont.gov/covid-19>

⁹ <https://dvha.vermont.gov/covid-19>

¹⁰ <https://ago.vermont.gov/blog/2020/03/19/attorney-general-donovan-to-postpone-government-benefits-cases-in-light-of-covid-19-crisis/>



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	<p>Additionally, Vermont Medicaid will be temporarily waiving Dr. Dynasaur premium obligations during the Emergency to facilitate initial and continuous coverage.</p> <p>Importantly, for Medicaid, eligible Vermonters can continue to apply for and enroll in Medicaid <u>at any time</u>. This has always been in effect.</p>
<p>Rapidly expand the health care workforce, by permitting licensed health providers from other states to be reimbursed for services delivered to Vermonters enrolled in Medicaid.</p>	<p>Status: Implemented on March 23, 2020, effective immediately. The State of Vermont’s Section 1135 flexibilities request was submitted on March 23, 2020 in order to address issues and challenges for health care system delivery in all counties of Vermont as a result of the COVID-19 pandemic including:¹¹</p> <p>Provider Enrollment:</p> <ul style="list-style-type: none"> • authorization to provisionally, temporarily enroll out-of-state providers who are enrolled with another State Medicaid Agency or Medicare but are not licensed, certified, or registered in Vermont for the duration of the Public Health Emergency and so long as the provider’s services are offered to a patient located in Vermont (using telehealth or as part of staff at a licensed facility) • reimbursement of otherwise payable claims from out-of-state providers not enrolled in Vermont Medicaid, pursuant to established criteria being met, during the duration of the Emergency.

¹¹ <https://www.medicaid.gov/state-resource-center/disaster-response-toolkit/federal-disaster-resources/entry/54091>



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	<ul style="list-style-type: none"> • waive certain screening requirements to support temporary provider enrollment for the duration of the Emergency. • cease revalidation of providers who are located in-state or otherwise directly impacted by the Emergency.
<p>Make payments for virtual services (by telephone, Internet, or other technology) at the same rate as face-to-face visits.</p>	<p>Status: Implemented on March 23, 2020, effective for a date-of-service of March 13, 2020, for reimbursement of medically necessary and clinically appropriate services delivered by telephone or other telecommunications device, including reimbursement for brief technology-based consultations (e.g. ‘virtual check-in’) via telephone or other communications device and remote evaluation of a recorded image/video to determine whether an office visit or other service is needed.</p> <p>Vermont Medicaid already provided coverage for medically necessary and clinically appropriate services delivered through telemedicine at the same reimbursement rate as if the service was provided face-to-face prior to the Emergency.^{12,13,14}</p>
<p>Include reimbursement for virtual services delivered by a wider sector of the health care workforce, including home visitors, home health providers, community health workers, nurses who work with child care providers, mental health counselors, and others.</p>	<p>Status: Implemented on March 23, 2020, effective for a date-of-service of March 13, 2020, for reimbursement of medically necessary and clinically appropriate services delivered by telephone or other telecommunications device; Vermont Medicaid already provided</p>

¹² <https://dvha.vermont.gov/sites/dvha/files/documents/News/Vermont%20Medicaid%20Telehealth%20Telemedicine%20Telephonic%20Emergency%20Response%20to%20COVID-19.pdf>

¹³ <https://dvha.vermont.gov/sites/dvha/files/documents/News/Vermont%20Medicaid%20Telehealth%20Telemedicine%20Telephonic%20Emergency%20Response%20to%20COVID-19.pdf>

¹⁴ <https://dvha.vermont.gov/sites/dvha/files/documents/News/FAQ%20Telephonic%20Services%20COVID-19%20Emergency%2003.27.20.pdf>



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	<p>coverage for medically necessary and clinically appropriate services delivered through telemedicine at the same reimbursement rate as if the service was provided face-to-face prior to the Emergency including for licensed mental health clinicians and other providers enrolled with Vermont Medicaid.^{15,16,17}</p> <p>Vermont Medicaid is working, as part of Phase II and in consultation with representatives of Vermont’s home health agencies, to approve medically necessary and clinically appropriate services to be delivered by telephone during the week of March 31, with a retroactive date of service of March 13, 2020.</p>
<p>Permit flexibility in delivery of prenatal, birth and postpartum, including home births by nurse midwives and support of trained doulas. Many pregnancy related services can be delivered via telemedicine.</p>	<p>Vermont Medicaid already provided coverage for medically necessary and clinically appropriate services delivered through telemedicine at the same reimbursement rate as if the service was provided face-to-face prior to the Emergency including for Vermont Medicaid-enrolled providers.^{18,19}</p>
<p>Expand the settings where Medicaid financing can be used, such as “hospitals without walls” and modified practices in emergency departments.</p>	<p>Status: In process</p> <p>Vermont Medicaid is exploring financing mechanisms to support health care providers in the provision of health care services to meet the needs of Medicaid members in response to COVID-19, e.g. medical surge capacity.</p>

¹⁵ <https://dvha.vermont.gov/sites/dvha/files/documents/News/Vermont%20Medicaid%20Telehealth%20Telemedicine%20Telephonic%20Emergency%20Response%20to%20COVID-19.pdf>

¹⁶ <https://dvha.vermont.gov/sites/dvha/files/documents/News/Vermont%20Medicaid%20Telehealth%20Telemedicine%20Telephonic%20Emergency%20Response%20to%20COVID-19.pdf>

¹⁷ <https://dvha.vermont.gov/sites/dvha/files/documents/News/FAQ%20Telephonic%20Services%20COVID-19%20Emergency%2003.27.20.pdf>

¹⁸ <https://humanservices.vermont.gov/sites/ahsnew/files/documents/MedicaidPolicy/3.101-telehealth-rule-adopted-rule.pdf>

¹⁹ (<https://www.kff.org/womens-health-policy/issue-brief/novel-coronavirus-covid-19-special-considerations-for-pregnant-women/>)



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<p>Extend the settings and services where Medicaid can be used for people with disabilities and serious chronic conditions, including payments for family members who are caregivers (“live in caregiver” service).</p>	<p>Status: In process</p> <p>Vermont Medicaid is in the process of implementing temporary modifications to home and community-based services to better serve people with disabilities and serious chronic conditions during the COVID-19 pandemic, including to:</p> <ol style="list-style-type: none"> 1. Temporarily modify service scope or coverage; 2. Temporarily exceed service limitations; 3. Temporarily add services to the waiver to address the Emergency situation; 4. Temporarily expand setting(s) where services may be provided; 5. Temporarily permit payment for services rendered by family caregivers or legally responsible individuals if not already permitted under the waiver; 6. Temporarily modify provider requirements; 7. Temporarily modify processes for level of care evaluations or re-evaluations; 8. Temporarily modify person-centered service plan development process; 9. Temporarily modify incident reporting requirements, medication management or other participant safeguards to ensure individual health and welfare, and to account for emergency circumstances.
<p>Lift certain requirements for prior authorization of services, such as those for children with complex medical and other special health care needs.</p>	<p>Status: In process, effective retroactively to March 1, 2020. The State of Vermont’s Section 1135 flexibilities request was submitted on March 23, 2020 in order to address issues and challenges for health care system delivery in all counties of Vermont as a result of the COVID-19 pandemic including:²⁰</p>

²⁰ <https://www.medicaid.gov/state-resource-center/disaster-response-toolkit/federal-disaster-resources/entry/54091>



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	<p>1). a temporarily suspension of prior authorization requirements for imaging, DME supplies (except imminent harm codes), dental services, and orthodontia services; and</p> <p>2). extending pre-existing authorizations through which a beneficiary has previously received prior authorization through the termination of the Emergency declaration.</p>
<p>Modify benefits to cover needed food, home delivered meals, diapers, and medical supplies people—particularly those with disabilities and chronic conditions— need to stay at home and maintain their health.</p>	<p>Status: Ongoing</p> <p>Vermont Medicaid continues to provide technical assistance to Medicaid members who need medical supplies, continence products and specialty food products based on medical necessity. Many of the suppliers of these products offered home delivery services prior to the COVID-19 pandemic and are continuing to do so during this Emergency period.</p>
<p>Pay for coronavirus treatment, not just testing, for Medicaid members without cost-sharing.</p>	<p>Status: Implemented on March 31, 2020, effective retroactively to March 1, 2020.²¹</p> <p>Prior to the Emergency, Vermont Medicaid required cost-sharing for outpatient hospital services, some dental services, and for prescriptions. On March 19, 2020, Vermont Medicaid waived all co-payments for outpatient hospital services to ensure that any co-payments related to testing and/or treatment for the novel coronavirus and COVID-19 would be waived. This policy change was effective retroactively to March 1, 2020. Additionally, effective for March 1, 2020, Vermont Medicaid waived co-payments for medications that may be used to treat the symptoms of COVID-19, including antihistamines, cough suppressants, anti-febrile/analgesic medications, cough and cold combination products, inhalers, etc.</p>

²¹ <https://dvha.vermont.gov/sites/dvha/files/documents/News/Vermont%20Medicaid%20Waives%20Hospital%20Outpatient%20Copayments.pdf>



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	and as of March 31, Vermont Medicaid amended its pharmacy practices to ensure that pharmacists are not required to obtain a signature for a prescription receipt or delivery. ²²
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²² <https://dvha.vermont.gov/sites/dvha/files/documents/COVID19%20UPDATE.pdf>