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State/Territory Name: **MARYLAND**

State Plan Amendment (SPA) #: **20-0003**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



May 4, 2020

Tricia Roddy
Director, Innovation, Research and Development
Health Care Financing
Maryland Department of Health
201 West Preston Street
Baltimore, Maryland 21201

Re: Maryland State Plan Amendment (SPA) 20-0003

Dear Ms. Roddy:

We have reviewed the proposed amendment to add section 7.4 Medicaid Disaster Relief for the COVID-19 National Emergency to your Medicaid state plan, as submitted under transmittal number (TN) 20-0003. This amendment proposes to implement temporary policies, which are different from those policies and procedures otherwise applied under your Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof).

On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency by the authorities vested in him by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and consistent with section 1135 of the Social Security Act (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act as a result of the consequences of the COVID-19 pandemic, to the extent necessary, as determined by the Centers for Medicare & Medicaid Services (CMS), to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and this state plan provision will no longer be in effect, upon termination of the public health emergency, including any extensions.

The State of Maryland requested a modification of the requirement to submit SPAs related to the COVID-19 emergency 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. CMS is approving this request pursuant to section 1135(b)(5) of the Act.

The State of Maryland also requested a waiver of public notice requirements applicable to the state plan amendment (SPA) submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42 C.F.R. §440.386 for changes to ABPs. These requirements help to ensure that the affected public has reasonable opportunity to comment on these SPAs. CMS recognizes that during this public health emergency, Maryland must act expeditiously to protect and serve the general public. Therefore, under section 1135(b)(1)(C) and 1135(b)(5) of the Act, CMS is approving the state's request to waive and modify these notice requirements applicable to this SPA.

These approvals under section 1135 only apply with respect to SPAs that provide or increase beneficiary access to items and services related to COVID-19 (such as cost sharing waivers, payment rate increases, or amendments to ABPs to add services or providers) and that would not restrict or limit payment or services or otherwise burden beneficiaries and providers, and that are temporary, with a specified sunset date that is not later than the last day of the declared COVID-19 emergency (or any extension thereof). We nonetheless encourage states to make all relevant information about the SPA available to the public so they are aware of the changes.

We conducted our review of your submittal according to the statutory requirements at section 1902(a) of the Act and implementing regulations. This letter is to inform you that Maryland's Medicaid SPA Transmittal Number 20-0003 is approved effective March 1, 2020. This SPA is in addition to the Maryland Disaster Relief SPA, MD-20-0001, approved on April 17, 2020, and does not supersede anything approved in that SPA. Enclosed is a copy of the CMS-179 summary form and the approved state plan pages.

Please contact Talbatha Myatt at 215-861-4259 or by email at Talbatha.Myatt@cms.hhs.gov if you have any questions about this approval. We appreciate the efforts of you and your staff in responding to the needs of the residents of the State of Maryland and the health care community.

Sincerely,

Anne M.
Costello -S

Digitally signed by Anne
M. Costello -S
Date: 2020.05.04
11:33:10 -04'00'

Anne Marie Costello
Deputy Director
Center for Medicaid & CHIP Services

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER 2 0 0 0 0 3	2. STATE Maryland
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
4. PROPOSED EFFECTIVE DATE March 1, 2020	

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

5. TYPE OF PLAN MATERIAL (*Check One*)

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)


6. FEDERAL STATUTE/REGULATION CITATION Title 19 of the Social Security Act	7. FEDERAL BUDGET IMPACT a. FFY <u>2020</u> \$ <u>0</u> b. FFY <u>2021</u> \$ <u>0</u>
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Att. 7.4 pg. 90-100 [*] (20-0003) 101 - 111*	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>) Att. 7.4 pg. 90 - 100 (NEW) [*]

10. SUBJECT OF AMENDMENT

The Maryland Department of Health hereby submits a request, pursuant to the 7.4 Medicaid Disaster Relief State Plan Amendment, to the Centers for Medicare and Medicaid Services (CMS) to prevent the transmission of the Coronavirus Disease (COVID-19) to the extent possible. The primary purpose of this State Plan Amendment is to request additional authorities in the phased approach encouraged by CMS.

11. GOVERNOR'S REVIEW (*Check One*)

- GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. OFFICIAL 	16. RETURN TO Tricia Roddy Maryland Medicaid 201 W Preston St, 2nd Floor Baltimore, MD 21216
13. TYPED NAME Tricia Roddy	
14. TITLE Director, Innovation, Research and Development Health Care Financing	
15. DATE SUBMITTED April 8, 2020	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED April 8, 2020	18. DATE APPROVED May 4, 2020
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL March 1, 2020	20. SIGNATURE OF REGIONAL OFFICIAL Anne M. Costello -S <small>Digitally signed by Anne M. Costello -S Date: 2020.05.04 11:33:40 -04'00'</small>
21. TYPED NAME Anne Marie Costello	22. TITLE Deputy Director Center for Medicaid & CHIP Services

23. REMARKS

Pen & Ink changes to D2 per states approval dated 5.1.2020.

* Pen and Ink changes per states request dated 4.30.20.

**Maryland's Second
Section 7 – General Provisions
7.4. Medicaid Disaster Relief for the COVID-19 National Emergency**

On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency by the authorities vested in him by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.), and consistent with section 1135 of the Social Security Act (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act as a result of the consequences COVID-19 pandemic, to the extent necessary, as determined by the Centers for Medicare & Medicaid Services (CMS), to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and waivers will no longer be available, upon termination of the public

The State Medicaid agency (agency) seeks to implement the policies and procedures described below, which are different than the policies and procedures otherwise applied under the Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof), or for any shorter period described below:

Describe shorter period here.

N/A

NOTE: States may not elect a period longer than the Presidential or Secretarial emergency declaration (or any renewal thereof). States may not propose changes on this template that restrict or limit payment, services, or eligibility, or otherwise burden beneficiaries and providers.

Request for Waivers under Section 1135

x The agency seeks the following under section 1135(b)(1)(C) and/or section 1135(b)(5) of the Act:

- a. x SPA submission requirements – the agency requests modification of the requirement to submit the SPA by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 CFR 430.20.
- b. x Public notice requirements – the agency requests waiver of public notice requirements that would otherwise be applicable to this SPA submission. These requirements may include those specified in 42 CFR 440.386 (Alternative Benefit Plans), 42 CFR 447.57(c) (premiums and cost sharing), and 42 CFR 447.205 (public notice of changes in statewide methods and standards for setting payment rates).

TN: 20-0003

Supersedes TN: NEW

Approval Date: 05/04/2020

Effective Date: 03/01/2020

This SPA is in addition to the Maryland Disaster Relief SPA, MD-20-0001, approved on 4/17/2020, and does not supersede anything approved in that SPA.

- c. Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in [insert name of state] Medicaid state plan, as described below:

Please describe the modifications to the timeline.

Section A – Eligibility

- 1. The agency furnishes medical assistance to the following optional groups of individuals described in section 1902(a)(10)(A)(ii) or 1902(a)(10)(c) of the Act. This may include the new optional group described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Act providing coverage for uninsured individuals.

Include name of the optional eligibility group and applicable income and resource standard.

- 2. The agency furnishes medical assistance to the following populations of individuals described in section 1902(a)(10)(A)(ii)(XX) of the Act and 42 CFR 435.218:

- a. All individuals who are described in section 1905(a)(10)(A)(ii)(XX)

Income standard: _____

-or-

- b. Individuals described in the following categorical populations in section 1905(a) of the Act:

Income standard: _____

- 3. The agency applies less restrictive financial methodologies to individuals excepted from financial methodologies based on modified adjusted gross income (MAGI) as follows.

Less restrictive income methodologies:

Less restrictive resource methodologies:

4. The agency considers individuals who are evacuated from the state, who leave the state for medical reasons related to the disaster or public health emergency, or who are otherwise absent from the state due to the disaster or public health emergency and who intend to return to the state, to continue to be residents of the state under 42 CFR 435.403(j)(3).

5. The agency provides Medicaid coverage to the following individuals living in the state, who are non-residents:

6. The agency provides for an extension of the reasonable opportunity period for non-citizens declaring to be in a satisfactory immigration status, if the non-citizen is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency is unable to complete the verification process within the 90-day reasonable opportunity period due to the disaster or public health emergency.

Section B – Enrollment

1. The agency elects to allow hospitals to make presumptive eligibility determinations for the following additional state plan populations, or for populations in an approved section 1115 demonstration, in accordance with section 1902(a)(47)(B) of the Act and 42 CFR 435.1110, provided that the agency has determined that the hospital is capable of making such determinations.

Please describe the applicable eligibility groups/populations and any changes to reasonable limitations, performance standards or other factors.

2. The agency designates itself as a qualified entity for purposes of making presumptive eligibility determinations described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Subpart L.

Please describe any limitations related to the populations included or the number of allowable PE periods.

3. The agency designates the following entities as qualified entities for purposes of making presumptive eligibility determinations or adds additional populations as described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Subpart L. Indicate if any designated entities are permitted to make presumptive eligibility determinations only for specified populations.

Please describe the designated entities or additional populations and any limitations related to the specified populations or number of allowable PE periods.

4. The agency adopts a total of months (not to exceed 12 months) continuous eligibility for children under age enter age (not to exceed age 19) regardless of changes in circumstances in accordance with section 1902(e)(12) of the Act and 42 CFR 435.926.
5. The agency conducts redeterminations of eligibility for individuals excepted from MAGI-based financial methodologies under 42 CFR 435.603(j) once every months (not to exceed 12 months) in accordance with 42 CFR 435.916(b).
6. The agency uses the following simplified application(s) to support enrollment in affected areas or for affected individuals (a copy of the simplified application(s) has been submitted to CMS).
- a. The agency uses a simplified paper application.
 - b. The agency uses a simplified online application.
 - c. The simplified paper or online application is made available for use in call-centers or other telephone applications in affected areas.

Section C – Premiums and Cost Sharing

1. The agency suspends deductibles, copayments, coinsurance, and other cost sharing charges as follows:

Please describe whether the state suspends all cost sharing or suspends only specified deductibles, copayments, coinsurance, or other cost sharing charges for specified items and services or for specified eligibility groups consistent with 42 CFR 447.52(d) or for specified income levels consistent with 42 CFR 447.52(g).

2. The agency suspends enrollment fees, premiums and similar charges for:
- a. All beneficiaries
 - b. The following eligibility groups or categorical populations:

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Effective Date: 03/01/2020

Please list the applicable eligibility groups or populations.

- 3. The agency allows waiver of payment of the enrollment fee, premiums and similar charges for undue hardship.

Section D – Benefits

Benefits:

- 1. The agency adds the following optional benefits in its state plan (include service descriptions, provider qualifications, and limitations on amount, duration or scope of the benefit):

- 2. The agency makes the following adjustments to benefits currently covered in the state plan:

Additional Provider Types Allowed to Prescribe Home Health Services

The state allows physicians and other licensed practitioners, in accordance with State law, to order Medicaid Home Health services as authorized in the COVID-19 Public Health Emergency Medicare interim final rule (CMS-1744-IFC).

Remote Patient Monitoring (RPM)

Maryland seeks to expand access to RPM services and proposes waiving certain current requirements.

Expanding RPM Services to Cover Additional Conditions

Currently RPM can be utilized for the following conditions: congestive heart failure, diabetes, and chronic obstructive pulmonary disease. Maryland proposes to expand this service to include all conditions capable of monitoring via RPM.

Expanding Participation by Modifying Qualifying Medical Event Criteria

Maryland proposes to remove the requirement that in order to qualify for RPM, potentially eligible participants must have the following types of qualifying medical events:

- (1) Two hospital admissions within the prior 12 months with the same qualifying medical condition as the primary diagnosis for both episodes;
- (2) Two emergency department visits within the prior 12 months with the same qualifying medical condition as the primary diagnosis for both episodes; or
- (3) One hospital admission and one separate emergency department visit within the prior 12 months with the same qualifying medical condition as the primary diagnosis for both episodes.

Suspension of Prior Authorization for RPM

Currently RPM services must receive prior authorization. Maryland proposes to suspend this requirement during the State of Emergency.

Payment to Family Members/Legally Responsible Individuals for Community First Choice (CFC) Services & Supports

The Community First Choice (CFC) Maryland State Plan program, uses a residential services agency (RSA) model pursuant to the agency provided model permitted under 42 CFR §441.545 and has set provider requirements pursuant to 42 CFR § 441.565.

Maryland will allow participants who receive personal assistance services to: waive the results of the criminal background check of the legally-responsible family member and/or waive the requirement for the legally-responsible family member who is providing personal assistance services to be Cardiopulmonary Resuscitation (CPR) trained.

Additionally, RSAs may waive the basic health screen and PPD skin test as a condition of employment for all personal assistance workers serving individuals enrolled in Community First Choice, including legally-responsible family members.

Payments would be made according to the standard fee schedule already in place. The RSA in which the family member or legally responsible individual enrolled would be responsible for all activities associated with processing payroll for its employees.

3. ____ The agency assures that newly added benefits or adjustments to benefits comply with all applicable statutory requirements, including the statewideness requirements found at 1902(a)(1), comparability requirements found at 1902(a)(10)(B), and free choice of provider requirements found at 1902(a)(23).
4. Application to Alternative Benefit Plans (ABP). The state adheres to all ABP provisions in 42 CFR Part 440, Subpart C. This section only applies to states that have an approved ABP(s).

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Supersedes TN: __NEW__

Approval Date: 05/04/2020

Effective Date: 03/01/2020

This SPA is in addition to the Maryland Disaster Relief SPA, MD-20-0001, approved on 4/17/2020, and does not supersede anything approved in that SPA.

- a. X The agency assures that these newly added and/or adjusted benefits will be made available to individuals receiving services under ABPs.
- b. Individuals receiving services under ABPs will not receive these newly added and/or adjusted benefits, or will only receive the following subset:

Please describe.

Telehealth:

5. X The agency utilizes telehealth in the following manner, which may be different than outlined in the state's approved state plan:

Please describe.

Permit services that are currently required to be delivered face-to-face, to be delivered telephonically where appropriate. These permissions would extend to services rendered by somatic, behavioral health, and developmental disabilities providers including, but not limited to providers such as Primary Care, Nurse Practitioners, Physician Assistants, Psychiatric Rehabilitation Programs, and TCM.

Drug Benefit:

6. The agency makes the following adjustments to the day supply or quantity limit for covered outpatient drugs. The agency should only make this modification if its current state plan pages have limits on the amount of medication dispensed.

Please describe the change in days or quantities that are allowed for the emergency period and for which drugs.

7. Prior authorization for medications is expanded by automatic renewal without clinical review, or time/quantity extensions.
8. The agency makes the following payment adjustment to the professional dispensing fee when additional costs are incurred by the providers for delivery. States will need to supply documentation to justify the additional fees.

Please describe the manner in which professional dispensing fees are adjusted.

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- 9. The agency makes exceptions to their published Preferred Drug List if drug shortages occur. This would include options for covering a brand name drug product that is a multi-source drug if a generic drug option is not available.

Section E – Payments

Optional benefits described in Section D:

- 1. Newly added benefits described in Section D are paid using the following methodology:

- a. Published fee schedules –

Effective date (enter date of change): _____

Location (list published location): _____

- b. Other:

Describe methodology here.

Increases to state plan payment methodologies:

- 2. The agency increases payment rates for the following services:

Please list all that apply.

- a. Payment increases are targeted based on the following criteria:

Please describe criteria.

- b. Payments are increased through:

- i. A supplemental payment or add-on within applicable upper payment limits:

Please describe.

- ii. An increase to rates as described below.

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Rates are increased:

Uniformly by the following percentage: _____

Through a modification to published fee schedules –

Effective date (enter date of change): _____

Location (list published location): _____

Up to the Medicare payments for equivalent services.

By the following factors:

Please describe.

Payment for services delivered via telehealth:

3. For the duration of the emergency, the state authorizes payments for telehealth services that:

- a. Are not otherwise paid under the Medicaid state plan;
- b. Differ from payments for the same services when provided face to face;
- c. Differ from current state plan provisions governing reimbursement for telehealth;

Describe telehealth payment variation.

- d. Include payment for ancillary costs associated with the delivery of covered services via telehealth, (if applicable), as follows:
 - i. Ancillary cost associated with the originating site for telehealth is incorporated into fee-for-service rates.
 - ii. Ancillary cost associated with the originating site for telehealth is separately reimbursed as an administrative cost by the state when a Medicaid service is delivered.

Other:

4. Other payment changes:

Please describe.

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Effective Date: 03/01/2020

Payments to Non-Emergency Transportation Providers

The Department proposes to pay for non-emergency transportation services either directly or through a grant model to the local health departments

Under Maryland's existing state plan at Attachment 3.1-D, non-emergency medical transportation expenditures are claimed as state administrative expenditures under an approved cost allocation plan. Payment for NEMT is limited to the grant model described below. Maryland currently covers NEMT as an administrative service. NEMT services are carved out of the managed care agreements under HealthChoice with very limited exceptions. The State currently operates its NEMT Program through a local broker model. The Transportation Grant program provides services to all Maryland Medicaid recipients, in both HealthChoice and fee-for-service, who do not have restricted eligibility. The Transportation Grant program provides funds to the 24 local jurisdictions (the 23 counties in Maryland and the city of Baltimore). The grantee in each jurisdiction is the local health department, except in Montgomery County where the grantee is the county department of transportation. Local jurisdictions use grant funds to: "screen recipients' requests for transportation to assure recipient eligibility and necessity of transportation; arrange for and/or provide the most efficient means of transportation where no other transportation is available to the recipient and without the provision of transportation, the recipient would not be able to access medical care; and ensure that Medicaid-funded transportation is used in a manner consistent with" Maryland's state regulations governing the administration of NEMT. At their discretion, local jurisdictions may arrange for screening and/or transportation services directly or provide these services through a subcontractor. The local jurisdictions ensure recipients' access to transportation for the purpose of receiving medically necessary medical care in an efficient and cost-effective manner.

For the duration of the COVID-19 PHE period, the State would be permitted to pay for NEMT services directly, outside of grants issued to local jurisdictions, or to pay an enhanced fee above the rates negotiated by the local jurisdictions. All NEMT expenditures, including these temporary direct and/or enhanced payments, will continue to be claimed as state administrative expenditures under an approved cost allocation plan.

Section F – Post-Eligibility Treatment of Income

1. The state elects to modify the basic personal needs allowance for institutionalized individuals. The basic personal needs allowance is equal to one of the following amounts:
 - a. The individual's total income
 - b. 300 percent of the SSI federal benefit rate
 - c. Other reasonable amount: _____
2. The state elects a new variance to the basic personal needs allowance. (Note: Election of this option is not dependent on a state electing the option described the option in F.1. above.)

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The state protects amounts exceeding the basic personal needs allowance for individuals who have the following greater personal needs:

Please describe the group or groups of individuals with greater needs and the amount(s) protected for each group or groups.

Section G – Other Policies and Procedures Differing from Approved Medicaid State Plan /Additional Information

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148 (Expires 03/31/2021). The time required to complete this information collection is estimated to average 1 to 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. Your response is required to receive a waiver under Section 1135 of the Social Security Act. All responses are public and will be made available on the CMS web site. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850. ***CMS Disclosure*** Please do not send applications, claims, payments, medical records or any documents containing sensitive information to the PRA Reports Clearance Office. Please note that any correspondence not pertaining to the information collection burden approved under the associated OMB control number listed on this form will not be reviewed, forwarded, or retained. If you have questions or concerns regarding where to submit your documents, please contact the Centers for Medicaid & CHIP Services at 410-786-3870.

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