March 18, 2020

By E-mail
Deirdre Gifford
Department of Social Services
Office of the Commissioner
55 Farmington Ave.
Hartford, CT 06105

Re: Additional Recommendations for DSS Covid-19 Response

Dear Commissioner Gifford:

We appreciate the proactive steps your agency has already taken to address the Covid-19 public health emergency. On behalf of our low-income, elderly and disabled clients who rely upon benefits administered by your agency, we write to offer additional suggestions to help lessen the harm to these vulnerable individuals.

We, too, expect harsh realities to continue to develop in our state, including (1) low wage workers will lose their jobs or have reduced hours and resulting reduced income; (2) many will newly qualify for needs-based public benefits, increasing applications to your agency; (3) vulnerable seniors/disabled individuals and homeless individuals, who already have limited community contacts, may now be even more isolated and unable to access services because of the virus; and (4) many of your workers may be unable to come to work due to school closings, quarantine, etc., DSS has closed its physical offices to the public, and the agency may close offices which process those benefits, dramatically slowing the process for everyone.

Given these realities, we have suggestions which we believe comport with existing federal requirements and may be implemented through state plan amendments or with expeditious federal waivers from CMS and FNS, such as under the Section 1135 of the Social Security Act. See https://www.cms.gov/files/document/covid19-emergency-declaration-health-care-providers-fact-sheet.pdf HHS is broadly granting waivers, so we anticipate that these recommendations can be implemented with full federal reimbursement for those programs that receive federal funds. To the extent some reimbursement may be impacted, we nevertheless urge, given the unprecedented emergency circumstances, all of these steps be taken without delay.

1. Use a Streamlined Application for Benefits

As you know, the basic application form for benefits is quite lengthy. For some benefits, extensive information about assets is required. Due to the exigent circumstances, DSS should use a simplified application across all application methods (on-line, paper, and phone) and where possible waive asset verification. A potential model may be found in the simplified application used for Medicare Savings Program applications.
2. Presumptive Eligibility

Self-attestation should be sufficient during this emergency period. It is authorized, and may even be required, in emergency circumstances (with the exception of citizenship and immigration status, for which verification may not be waived). See 42 C.F.R. Sections 435.952(c)(3) and 457.380. Individuals should be placed on any DSS-administered benefits for which they have applied if they appear eligible based on the information on the application form (unless DSS has information directly contradicting what is attested to and notifies the individual of the discrepancy). Any reasonable explanation for why the self-attestation is correct should be accepted, and the person should be placed on benefits. Of course, after the emergency is over, DSS may seek any additional information needed and, if not timely provided, terminate the benefits.

For individuals newly applying for home and community-based services, the access agencies' abbreviated assessments of need for services should be accepted without applying the Universal Assessment, so long as an authorized treating provider recommends that level of service. Qualified home health care agencies should also be able to perform certification and assessments for home care services.

3. Maintenance of Benefits for Individuals Already Enrolled

We understand that DSS intends to suspend redeterminations for at least three months. We request that no one be terminated from any DSS-administered benefits or have any benefits reduced, due to redeterminations, changed circumstances or any regular data matches until the public health emergency has ended, absent an affirmative request from the individual. In addition to waiving these requirements for TFA benefits, we urge that work requirements, sanctions and time limits for SAGA and SNAP ABAWD also be waived if that has not already been done. In addition to a moratorium on terminations of all benefits generally, health services under Medicaid should continue as long as an authorized treating provider continues to prescribe them and the individual desires that they continue during the emergency. We recommend suspension of annual reviews under the Universal Assessment for home care services during the emergency.

4. New Eligibility Required to Combat Covid-19

This public health emergency makes access to health care an imperative for all. People who forego testing or treatment of Covid-19, whether due to cost or immigration status or some other reason, pose a threat to us all. Accordingly, for the duration of this public health crisis, we urge that DSS cover all medical services available under the HUSKY program for all individuals who meet income and other criteria regardless of immigration status. To ensure that the immigrant communities seek medical services needed to protect them individually and our communities, we also urge that no information about immigration status of specific individuals be shared with the Department of Homeland Security or any other federal agency. Coverage should apply to all medical conditions, not only verified Covid-19 diagnoses. Otherwise, the expanded coverage will be largely ineffective as patients may still avoid treatment for illnesses that may well be Covid-19 related, out of fear of both reporting and massive medical bills.

Until this expansion is implemented, we ask that you issue an emergency declaration making clear to all health providers that anyone seeking diagnosis or treatment for Covid-19 shall be deemed to have an “emergency medical condition” reimbursable under Medicaid if they meet
non-immigration eligibility requirements, whether or not the individual turns out to have Covid-19 infection.

Because this virus is particularly deadly to elderly and disabled individuals, those who are on HUSKY C, but subject to a spenddown, should be placed on full Medicaid coverage immediately and continuing until the end of the emergency. They should be told that they do not have to submit medical bills to qualify.

5. Access to Administrative Hearings

Because the DSS field offices have closed, administrative hearings should be suspended until they can once again be held via video connection with fax access. Audio-only hearings by telephone do not comport with due process because the claimants cannot adequately cross-examine witnesses against them and the hearing officer cannot fully assess credibility. Accordingly, hearings should be suspended and the individual should receive, or continue to receive, the benefits requested which are the subject of the hearing.

We recommend that all deadlines for appealing adverse determinations be suspended during the emergency.

6. Access to Services Subject to Prior Authorization

During the emergency, we recommend the suspension of all prior authorization (PA) requirements for goods and services, except in the cases of very expensive goods or services, or goods or services where there is a concern that the health or safety of Medicaid enrollees may be negatively impacted without an external review. Where PA is still required, decisions should be made within 24 hours and communicated by phone or electronically, as well as by mail, to individuals, and any appeals should be granted pending a hearing except in the cases of the purchase (as opposed to rental) of very expensive items of medical equipment. Providers should be held harmless for providing services for which the agency or CHNCT might not have granted PA so long as the services are of a kind generally covered by Medicaid. We note that Florida was recently granted an 1135 waiver by CMS for a similar relaxation of PA requirements.

Where PA has already been granted, but for a limited time period, the grant should be automatically extended until the end of the emergency so long as an authorized treating provider recommends treatment for that period.

7. Facilitation of Access to Providers and Medication

As providers become stretched thin, attending to their current patients in addition to the expected deluge of Covid-19 related cases, we anticipate a serious provider shortage. To help in this crisis, we urge that any provider licensed in another state or by Medicare be reimbursed under CT Medicaid without being licensed in Connecticut through a simplified Medicaid enrollment process. For providers already enrolled in CT Medicaid, the NEMT broker should be required to waive distance limitations which would otherwise be applicable. In addition, we urge a ban on shared livery rides and automatic approval of any requests for livery vs. bus transport as medically necessary for anyone who is over 60 or who identifies or is identified by a medical provider as immuno-compromised.
We also urge you to exercise your authority to broadly cover telehealth services for HUSKY enrollees, including not only video consultation, but also telephone consults, to ensure the broadest number of patients to access their doctors remotely. Many HUSKY enrollees do not have video capability and they have been discouraged from using facilities where video access might be available. Reimbursement for telephone consultations would encourage doctors to take their patients’ phone calls, thus connecting HUSKY enrollees with medical advice, reducing the need for in-person visits and helping prevent the spread of Covid-19.

Going to the pharmacy will become increasingly difficult for many individuals, particularly those who are elderly or disabled. We appreciate that you have indicated a willingness to allow refills of up to 90 days, but suggest, given the extreme circumstances of low income individuals on HUSKY, that the Department should allow the filling of up to five months’ worth of prescribed refills at one time for all maintenance medications, until the emergency is over. We recognize that C.G.S. Section 20-616a may serve as a barrier to individuals on Medicaid receiving more than a 90 day supply at one time from the pharmacy. To that extent, we urge you to work with the Governor to waive that limitation, at least as applies to Medicaid enrollees.

8. Concerns re Access to Home Care Services for Homebound Individuals on Home Care Benefits

Individuals receiving home care services are in direct danger of institutionalization in a nursing facility if their services cease, exposing them to further risk. The Department should waive post-eligibility contributions to cost of care for such individuals so that they can meet expected higher costs of sheltering at home.

There are understandable concerns by home care and PCA workers that they might infect an elderly or disabled client or become infected by them. Therefore, it is imperative that the Department work with home care agencies and the union representing PCA workers to ensure that such workers have all appropriate protective equipment.

Nevertheless, because of the inevitable shortage of home care and PCA workers, there must be a streamlined process allowing family members most likely to visit or care for elderly and disabled homebound individuals to become PCAs.

9. Moratorium on All Discharges from Nursing Facilities

We wrote to you on Monday, March 16th, about the urgent need to place a moratorium on all discharges from nursing facilities for the duration of the emergency (we wrote to the DPH commissioner the same day urging the same with respect to residential care homes). We have not yet heard from you regarding this request, so we reiterate the urgency of that need for the reasons specified in that letter. The other requests in the letter, to suspend all terminations of Medicaid payment for nursing home care and all hearings involving nursing home discharges and suspensions of payment, are subsumed within the broader requests for a suspension of all DSS hearings and of all benefit terminations set forth above.
10. Waiver of Lifetime Limits on TFA

Many CT residents have used up their lifetime limit for TFA benefits. While some parents with minor children losing their employment now and in the coming weeks may qualify for unemployment, others will not. We urge you to waive the lifetime bar on TFA in individuals who have received 21 months of benefits for the duration of the emergency.

11. Additional Waivers of Certain Eligibility Requirements for Various Programs

As federal rules and statutes change to allow greater access to DSS-administered programs, we urge the Department to take full advantage of the additional flexibility and access provided.

We recognize that the above is an extraordinary set of recommendations, but these are extraordinary times. Fortunately, as you know, federal agencies, including HHS, are broadly waiving rules to get and keep people on essential services and benefits. Just two days ago, as noted above, a broad Section 1135 waiver was granted to the State of Florida to make some of the very changes urged by us here, and both Washington State and California have just submitted very broad Section 1135 waiver requests. We urge you to submit a Section 1135 waiver request to HHS as soon as possible, as necessary to obtain waivers of relevant federal rules.

Thank you for all that you do for our clients and for considering our suggestions. We are open to continuing the conversation with you and other DSS officials to help figure out how we can best protect the large (and growing) portion of CT’s population that relies on essential medical, cash and food assistance provided by your agency. Please contact any one of us if you would be willing to engage in such a dialogue.

Thank you.

Respectfully yours,

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