

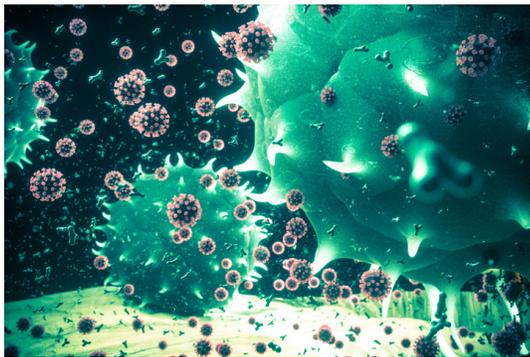
# Update on Connecticut's Response to COVID-19 Crisis: Governor Forms Health System Response Team; CMS Grants Connecticut a Waiver of Certain Medicaid Requirements

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## Connecticut Health Law

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By Margaret Bartiromo and Stephen Cowherd



### ***Governor Lamont Forms Health System Response Team***

Earlier today, Governor Ned Lamont announced a collaboration among three of the largest hospital systems in Connecticut (Hartford HealthCare, Nuvance Health, and Yale New Haven Health) to assist in the state's coordinated response to the COVID-19 pandemic. The CEOs of these hospital systems will serve as co-chairs of the Governor's Health System Response Team. In coordination with the Connecticut Hospital Association and the state's other hospitals, these health care leaders will advise the Governor,

the Department of Public Health and the rest of the state's emergency support functions in the Unified Command structure on the proper allocation and distribution of needed resources, supplies, and personnel, throughout the duration of the public health emergency. (The State's Unified Command is typically used for incidents that go beyond municipal capacity to respond or those incidents that require assistance from across multiple state agencies and includes Commissioners from the affected or involved agencies acting in support of the Governor.)

### ***CMS Grants Medicaid Waivers***

On March 27, 2020, the Centers for Medicare and Medicaid Services (CMS) granted in part Connecticut's request for waivers or modifications related to Medicaid in response to the COVID-19 outbreak. These approvals provide Connecticut with new flexibilities so it can focus its resources on providing the best possible care to its Medicaid beneficiaries during the pandemic.

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The Connecticut Department of Social Services had requested waivers and modifications under **both** Medicare and Medicaid but the waivers and modifications issued last Friday address **only requests related to Medicaid** and include:

- Temporary suspension of Medicaid fee-for-service prior authorization requirements;
- Extension of pre-existing authorizations which a beneficiary previously received for services that were approved to be provided on or after March 1, 2020. These services may continue to be provided without a requirement for a new or renewed prior authorization through the end of the public health emergency and apply to beneficiaries with a permanent residence in the geographic area of the public health emergency;
- Modification of the timeframe for managed care entities to resolve appeals before an enrollee may request a State fair hearing to no less than one day in accordance with certain requirements. This means that appeals filed between March 1, 2020 and the end of the public health emergency are generally deemed to satisfy the exhaustion requirement after one day (or more if that is the timeline elected by the State), allowing enrollees to file an appeal to the State fair hearing level almost immediately;
- Modification of the timeframe for enrollees to exercise their appeal rights to allow an additional 120 days to request a fair hearing when the initial 120th day deadline occurs during the period of the waiver;
- Changes to the rules governing reimbursement to out-of-state providers who are not enrolled in the Connecticut Medicaid program. For example:
  - Under the Medicaid waiver, such providers may be reimbursed for multiple instances of care to multiple participants for the duration of the public health emergency, so long as the other criteria relating to out-of-state providers are met.
  - If a certified provider is enrolled in Medicare or with a state Medicaid agency other than Connecticut, Connecticut may, provisionally and temporarily, enroll the provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.
  - With respect to providers not already enrolled with another state Medicaid agency or Medicare, CMS is waiving some screening requirements so the State may, provisionally and temporarily, enroll the providers for the duration of the public health emergency, provided that the State checks the OIG exclusion list and confirms that the provider is licensed and legally authorized to practice or deliver the services for which he/she files claims in at least one state.
- CMS approved Connecticut's request to temporarily cease revalidation of providers who are located in Connecticut or are otherwise directly impacted by the emergency.

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These provider enrollment emergency relief efforts also apply to the Children's Health Insurance Program, to the extent applicable.

- Allowing certain licensed facilities (including intermediate care facilities for individuals with intellectual and developmental disabilities and psychiatric residential treatment facilities) to be fully reimbursed for services rendered to an unlicensed facility (during an emergency evacuation or due to other need to relocate residents where the placing facility continues to render services), provided that the State makes a reasonable assessment that the facility meets minimum standards, consistent with reasonable expectations in the context of the current public health emergency, to ensure the health, safety and comfort of beneficiaries and staff. The placing facility would be responsible for determining how to reimburse the unlicensed facility.

For a complete listing of all of the waivers and modifications granted by CMS on March 27, please see the CMS response. CMS notes that it will continue to work on other waivers and modifications requested by Connecticut that are not reflected in the March 27 approval. For more information, please contact a Pullman & Comley Health Care attorney.

**Posted in** COVID-19

**Tags:** Centers for Medicare & Medicaid Services (CMS), Governor Lamont, Medicaid, Medicare