January 5, 2023

Dan Tsai

U.S. Department of Health & Human Services

The Centers for Medicare & Medicaid Services

7500 Security Boulevard

Baltimore, MD 21244

**REQUEST FOR RESCISSION OF SECTION 1135 WAIVER FLEXIBILITIES RELATED TO NOVEL CORONAVIRUS**

**DISEASE (COVID-19) NATIONAL EMERGENCY/PUBLIC HEALTH EMERGENCY**

Dear Mr. Tsai:

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).

As authorized under Section 1135 of the Social Security Act, the Arkansas Department of Human Services (DHS) requested four separate waivers of certain federal Medicaid, CHIP, and HIPAA requirements in response to the COVID-19 outbreak and the corresponding public health emergency, as well as several blanket waivers pre-approved by the Centers for Medicare and Medicaid Services (CMS). CMS approved four Section 1135 Waivers on behalf of Arkansas during the Public Health Emergency.

Based on the evolving needs of the State in responding to the continued COVID-19 pandemic, Arkansas is requesting to rescind two of the requested authorities that were previously approved by CMS. The specific authorities that DHS is requesting to rescind are detailed below.

We appreciate your prompt approval of these rescissions 1135 Waivers of federal requirements and your continued efforts to support us in adequately responding to the ongoing public health emergency. DHS thanks you for your flexibility and prompt attention during these difficult times.

Sincerely,

Dawn Stehle

Medicaid Director

DHS requests the following flexibilities under previously approved 1135 Waivers that are scheduled to last through the duration of the COVID-19 public health emergency be rescinded. DHS will notify all providers of the rescissions at least 30 days in advance of the effective date.

1. On March 30, 2020, DHS requested to waive Pre-Admission Screening and Annual Resident Reviews (PASSR) for Level 1 and Level 2 Assessments for skilled nursing facilities. CMS approved this request on April 2, 2020. At this time, DHS requests to rescind this waiver and reinstate PASSR reviews effective January 1, 2023.
2. On April 23, 2020, DHS requested to temporarily suspend prior authorization requirements for certain State Plan services, including certain durable medical equipment, hospital stays beyond four (4) days, Viscosupplementation, and hyperalimentation services. CMS approved this request on May 5, 2020. At this time, DHS requests to rescind this waiver and reinstate prior authorization requirements for these services effective as follows:
   1. July 1, 2021 for prior authorizations of durable medical equipment, Viscosupplementation, and hyperalimentation services.
   2. January 1, 2023 for hospital stays beyond four (4) days.

On April 11, 2021, DHS published notice in the Arkansas Democrat Gazette, a paper of state-wide circulation, that the above policies related to prior authorizations of durable medical equipment, Viscosupplementation, and hyperalimentation services would be sunsetting effective July 1, 2021, as it was not contained in the continuing emergency response policy manual. Public Comment spanned from April 11, 2021- May 10, 2021. The manual was reviewed by Legislative Council on June 18, 2021 and was effective July 1, 2021.

On October 10, 2021, DHS published Notice in the Arkansas Democrat Gazette, a paper of state-wide circulation, that the above policies related to PASSR and prior authorization of hospital stays were sunsetting effective December 31, 2022. Public Comment spanned from October 10, 2021- November 8, 2021. The manual was reviewed by Legislative Council on December 17, 2021, and was effective January 1, 2022. The manual stated that all Covid policies would end on December 31, 2022.