

STATE OF NORTH CAROLINA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER  
GOVERNOR

KODY H. KINSLEY  
SECRETARY

December 9, 2024

Daniel Tsai, Deputy Administrator and Director  
Center for Medicaid & CHIP Services  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

SUBJECT: Request For Section 1115(a) Demonstration Authority Related To North Carolina's Disaster Declaration

Dear Deputy Administrator Tsai:

North Carolina Governor Roy Cooper issued [Executive Order 315](#) on September 25, 2024, which declared a state of emergency for North Carolina in anticipation of severe weather caused by Hurricane Helene. On September 28, 2024, the President of the United States [approved](#) North Carolina's disaster declaration. North Carolina hereby submits a request, pursuant to section 1115(a) demonstration authority as outlined in the Social Security Act (the Act), from the Centers for Medicare & Medicaid Services (CMS) to respond to and address challenges posed by Hurricane Helene.

The below list represents North Carolina's requested flexibilities under the Section 1115(a) authority in connection with the Hurricane Helene state of emergency.

Additionally, a state may request a Section 1135 state plan amendment process waiver if the President has declared a major disaster or an emergency under the Stafford Act, or an emergency under the National Emergencies Act, and the Secretary of the Department of Health and Human Services has declared a public health emergency. The agency seeks the following under section 1135(b)(5) of the Social Security Act:

**Tribal Consultation:** Pursuant to section 1135 (b)(5) of the Act, allows modification of the required Tribal consultation timelines specified in the Medicaid state plan per section 1902(a)(73) of the Act. The state requests to temporarily modify the Tribal consultation timeline to allow for the completion of the Tribal Consultation after the submission of this request.

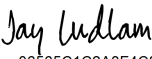
**Justification:** Given the urgency of this request to modify our policies and procedures to respond to Hurricane Helene, NC proposes to modify its Tribal consultation timeline, allowing the agency to receive feedback from its Tribal partners while submitting the Section 1115(a) authority request in a timely manner.

**Public Notice and Comment:** Pursuant to section 1135 (b)(5) of the Act, allows modification of the public notice and comment requirements outlined in 42 CFR § 431.408. The state requests to temporarily waive the public notice and comment process and public hearings requirement associated with this Section 1115(a) authority request.

**Justification:** Due to the nature of the emergency, it is not feasible for the agency to adhere to the public notice processes and still submit the Section 1115(a) authority request prior to the current end date of the public health emergency period. The agency supports the goals of public transparency and intends to publicly post the request after submission to CMS.

North Carolina's Department of Health and Human Services is committed to the State's response to and recovery from Hurricane Helene. We look forward to continue to work federal partners to make it faster and easier for beneficiaries to receive— and for health care professionals to provide—Medicaid care and services. We greatly appreciate and look forward to your continued support.

Sincerely,

DocuSigned by:  
  
06565C1C2A8F4C8...

Deputy Secretary Jay Ludlam

**North Carolina Hurricane Helene  
Section 1115(a) Demonstration Application**

The State of North Carolina, Department of Health and Human Services proposes emergency relief as an affected state, through the use of section 1115(a) demonstration authority as outlined in the Social Security Act (the Act), to address the multi-faceted effects of the Hurricane Helene on the state’s Medicaid program.

**I. DEMONSTRATION GOAL AND OBJECTIVES**

Effective retroactively to September 25, 2024, the State of North Carolina seeks section 1115(a) demonstration authority to operate its Medicaid program without regard to the specific statutory or regulatory provisions (or related policy guidance) described below, in order to furnish medical assistance in a manner intended to protect, to the greatest extent possible, the health, safety, and welfare of individuals and providers who may be affected by Hurricane Helene.

**II. DEMONSTRATION PROJECT FEATURES**

**A. Eligible Individuals:** The following populations will be eligible under this demonstration. To the extent coverage of a particular service is available for a particular beneficiary under the State plan, such coverage will be provided under the State plan and not under demonstration authority.

Check to Apply	Population
✓	Current title XIX State plan beneficiaries
	Current section 1115(a)(2) expenditure population(s) eligible for/enrolled in the following existing section 1115 demonstrations: [ <i>state to identify here</i> ]

**B. Benefits:** The state will provide the following benefits and services to individuals eligible under this demonstration. To the extent coverage of a particular service is available for a particular beneficiary under the State plan, such coverage will be provided under the State plan and not under demonstration authority.

Check to Apply	Services
	Current title XIX State plan benefits
✓	Others as described here: <ul style="list-style-type: none"> <li>• Home health services covered under 1905(a)</li> <li>• Private duty nursing covered under 1905(a)</li> <li>• Personal care services covered under 1905(a)</li> </ul>

**C. Cost-sharing**

Check to Apply	Cost-Sharing Description
✓	There will be no premium, enrollment fee, or similar charge, or cost-sharing (including copayments and deductibles) required of individuals who will be enrolled in this demonstration that varies from the state’s current state plan.
	Other as described here: [ <i>state to insert description</i> ]

**D. Delivery System:**

Check to Apply	Delivery System Description
✓	The health care delivery system for the provision of services under this demonstration will be implemented in the same manner as under the state’s current state plan.
✓	Other as described here: <ul style="list-style-type: none"> <li>• Managed care delivery system as currently authorized under Section 1115 demonstration</li> <li>• Managed care delivery system as currently authorized under Section 1915(b)</li> </ul>

---

**III. EXPENDITURE AND ENROLLMENT PROJECTIONS**

**A. Enrollment and Enrollment Impact.**

- i. State projects that approximately 2,000 individuals as described in section II will be eligible for the period of the demonstration. The overall impact of this section 1115 demonstration is that these individuals, for the period of the demonstration, will continue to receive HCBS or coverage through this demonstration to address the Hurricane Helene state of emergency.

**B.Expenditure Projection.**

The state projects that the total aggregate expenditures under this section 1115 demonstration is \$6.6 million.

In light of the unprecedented emergency circumstances associated with Hurricane Helene, and consistent with the President’s approval of North Carolina’s disaster declaration on September 28, 2024 and the time-limited nature of demonstrations that would be approved under this opportunity, the Department will not require North Carolina to submit budget neutrality calculations for this section 1115 demonstration project. In general, CMS has determined that the costs to the Federal Government are likely to have otherwise been incurred and allowable. States will still be required to track expenditures and should evaluate the connection between and cost effectiveness of those expenditures and the state’s response to the state of emergency in their evaluations of demonstrations approved under this opportunity.

**IV. APPLICABLE TITLE XIX AUTHORITIES**

The state is proposing to apply the flexibilities granted under this demonstration opportunity to the populations identified in section II.A above.

Check to Apply	Program
✓	Medicaid state plan
	Section 1915(c) of the Social Security Act (“HCBS waiver”). Provide applicable waiver numbers below:
✓	Section 1115(a) of the Social Security Act (i.e., existing, approved state demonstration projects). Provide applicable demonstration name/population name below:  North Carolina Medicaid Reform Demonstration
	Other: <i>[State to describe here]</i>

**V. WAIVERS AND EXPENDITURE AUTHORITIES**

A non-exhaustive list of waiver and expenditure authorities available under this section 1115 demonstration opportunity has been provided below. North Carolina has the flexibility to request additional waivers and expenditure authorities as necessary to operate their programs to address Hurricane Helene. If additional waivers or expenditure authorities are desired, North Carolina will identify the authority needed where indicated below and include a justification for how the authority is needed to assist the state in meeting its goals and objectives for this demonstration. States may include attachments as necessary.

**A. Section 1115(a)(1) Waivers and Provisions Not Otherwise Applicable under 1115(a)(2)**

The state is requesting the below waivers pursuant to section 1115(a)(1) of the Act, applicable for beneficiaries under the demonstration who derive their coverage from the relevant State plan. With respect to beneficiaries under the demonstration who derive their coverage from an expenditure authority under section 1115(a)(2) of the Act, the below requirements are identified as not applicable. Please check all that apply.

Check to Waive	Provision(s) to be Waived	Description/Purpose of Waiver
	Section 1902(a)(1)	To permit the state to target services on a geographic basis that is less than statewide.
	Section 1902(a)(8), (a)(10)(B), and/or (a)(17)	To permit the state to vary the amount, duration, and scope of services based on population needs; to provide different services to different beneficiaries in the same eligibility group, or different services to beneficiaries in the categorically needy and medically needy groups; and to allow states to triage access to long-term services and supports based on highest need.

**B. Expenditure Authority**

Pursuant to section 1115(a)(2) of the Act, the state is requesting that the expenditures listed below be regarded as expenditures under the state plan.

Note: Checking the appropriate box(es) will allow the state to claim federal financial participation for expenditures that otherwise would be ineligible for federal match.

Check to Request Expenditure	Description/Purpose of Expenditure Authority
	Allow for self-attestation or alternative verification of individuals' eligibility (income/assets) and level of care to qualify for long-term care services and supports.
	Long-term care services and supports for impacted individuals even if services are not timely updated in the plan of care, or are delivered in alternative settings.
	Ability to pay higher rates for HCBS providers in order to maintain capacity.

Check to Request Expenditure	Description/Purpose of Expenditure Authority
✓	The ability to make retainer payments to certain habilitation and personal care providers to maintain capacity during and after the emergency, specifically home health, personal care, and private duty nursing services authorized under section 1905(a).
	Allow states to modify eligibility criteria for long-term services and supports.
	The ability to reduce or delay the need for states to conduct functional assessments to determine level of care for beneficiaries needing LTSS.
✓	The ability to make payments for Healthy Opportunities Pilot Program Services in the affected region without the regard to the requirement that the HOP Administrator authorize services found in STC 21.T.i and instead permitting that HOP enrollees self-attest to their HOP eligibility.
✓	The ability to make payments for Healthy Opportunities Pilot Program Services for individuals who resided in the affected region on the day of the disaster declaration but have since been displaced and were approved for HOP services to continue receiving those services, if feasible, from organizations in any HOP region, without regard to requirements in STC 21.T.i.
✓	The ability to make payments for Healthy Opportunities Pilot Program Services in the affected region without regard to care plan documentation requirements found in STC 21.T.iv.

**VI. Public Notice**

Pursuant to 42 CFR 431.416(g), the state is exempt from conducting a state public notice and input process as set forth in 42 CFR 431.408 to expedite a decision on this section 1115 demonstration that addresses the Hurricane Helene state of health emergency.

**VII. Evaluation Indicators and Additional Application Requirements**

- A. Evaluation Hypothesis.** The demonstration will test whether and how the waivers and expenditure authorities affected the state’s response to the emergency, and how they affected coverage and expenditures.
- B. Final Report. This report will consolidate demonstration monitoring and evaluation requirements.** No later than one year after the end of this demonstration addressing the Hurricane Helene state of emergency, the state will be required to submit a consolidated monitoring and evaluation report to CMS to describe the effectiveness of this program in addressing the emergency. States will be required to track expenditures, and should evaluate the connection between and cost effectiveness of those expenditures and the state’s response to the emergency in their evaluations of demonstrations approved under this opportunity. Furthermore, states will be required to comply with reporting requirements set forth in 42 CFR 431.420 and 431.428, such as information on demonstration implementation, progress made, lessons learned, and best practices for similar situations. States will be required to track separately all expenditures associated with this demonstration, including but not limited to administrative costs and program expenditures, in

accordance with instructions provided by CMS. CMS will provide additional guidance on the evaluation design, as well as on the requirements, content, structure, and submittal of the report.

**VIII. STATE CONTACT AND SIGNATURE**

State Medicaid Director Name: Jay Ludlam  
Telephone Number: 919-527-7033  
E-mail Address: Jay.Ludlam@dhhs.nc.gov

State Lead Contact for Demonstration Application: Julia Lerche  
Telephone Number: 984-365-1272  
E-mail Address: julia.lerche@dhhs.nc.gov

Authorizing Official (Typed): Jay Ludlam DocuSigned by: \_\_\_\_\_  
Authorizing Official (Signature): Jay Ludlam  
Date: 12/10/24 | 9:56 AM EST 06565C1C2A8F4C8...

**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. 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 1115 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 Judith Cash at 410-786-9686.