



**Ensuring Access to Long-Term  
Services and Supports (LTSS)  
During COVID-19:  
Exploring a State Resource Guide  
Produced by Manatt Health and  
The SCAN Foundation**

July 10, 2020, 3:00-4:00 PM ET

**STATE**  
Health & Value  
**STRATEGIES**  
**COVID-19**

*A grantee of the Robert Wood Johnson Foundation*

# About State Health and Value Strategies

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State Health and Value Strategies (SHVS) assists states in their efforts to transform health and health care by providing targeted technical assistance to state officials and agencies. The program is a grantee of the Robert Wood Johnson Foundation, led by staff at Princeton University's Princeton School of Public and International Affairs. The program connects states with experts and peers to undertake health care transformation initiatives. By engaging state officials, the program provides lessons learned, highlights successful strategies, and brings together states with experts in the field. Learn more at [www.shvs.org](http://www.shvs.org).

**Questions?** Email Heather Howard at [heatherh@Princeton.edu](mailto:heatherh@Princeton.edu).

*Support for this meeting was provided by the Robert Wood Johnson Foundation.  
The views expressed here do not necessarily reflect the views of the Foundation.*

# Housekeeping Details

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All participant lines are muted. If at any time you would like to submit a question, please use the Q&A box at the bottom right of your screen.

After the webinar, the slides and a recording will be available at **[www.shvs.org](http://www.shvs.org)**.

# COVID-19 Resources for States

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State Health and Value Strategies has created an accessible one-stop source of COVID-19 information for states at [www.shvs.org/covid19/](http://www.shvs.org/covid19/). The webpage is designed to support states seeking to make coverage and essential services available to all of their residents, especially high-risk and vulnerable people, during the COVID-19 pandemic.

# About The SCAN Foundation

## Our Vision:

A society where older adults can access health and supportive services of their choosing to meet their needs.

## Our Mission:

To advance a coordinated and easily navigated system of high-quality services for older adults that preserve dignity and independence.



EMPOWERING OLDER ADULTS

**We believe in  
health systems  
that put people  
first**



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# About Manatt Health

Manatt Health, a division of Manatt, Phelps & Phillips, LLP, is an integrated legal and consulting practice with over 160 professionals in nine locations across the country. Manatt Health supports states, providers, and insurers with understanding and navigating the complex and rapidly evolving health care policy and regulatory landscape. Manatt Health brings deep subject matter expertise to its clients, helping them expand coverage, increase access, and create new ways of organizing, paying for, and delivering care. For more information, visit [www.manatt.com/ManattHealth.aspx](http://www.manatt.com/ManattHealth.aspx).

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# Today's Presenters

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# Webinar Objectives

- ✓ Review select state and federal Medicaid regulatory flexibilities and administrative actions that are available to states during the COVID-19 public health emergency.
- ✓ Highlight state policy goals in implementing available regulatory flexibilities and administrative actions.
- ✓ Provide examples of how states have implemented these flexibilities and administrative actions to help ensure access to person-centered LTSS.

# Agenda

- Impact of COVID-19 on LTSS
- The State Resource Guide
- State Perspectives
- Questions

# IMPACT OF COVID-19 ON LTSS

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# Preliminary Medicare COVID-19 Data Snapshot:

Medicare Claims and Encounter Data: Services January 1 to May 16, 2020, Received by June 11, 2020

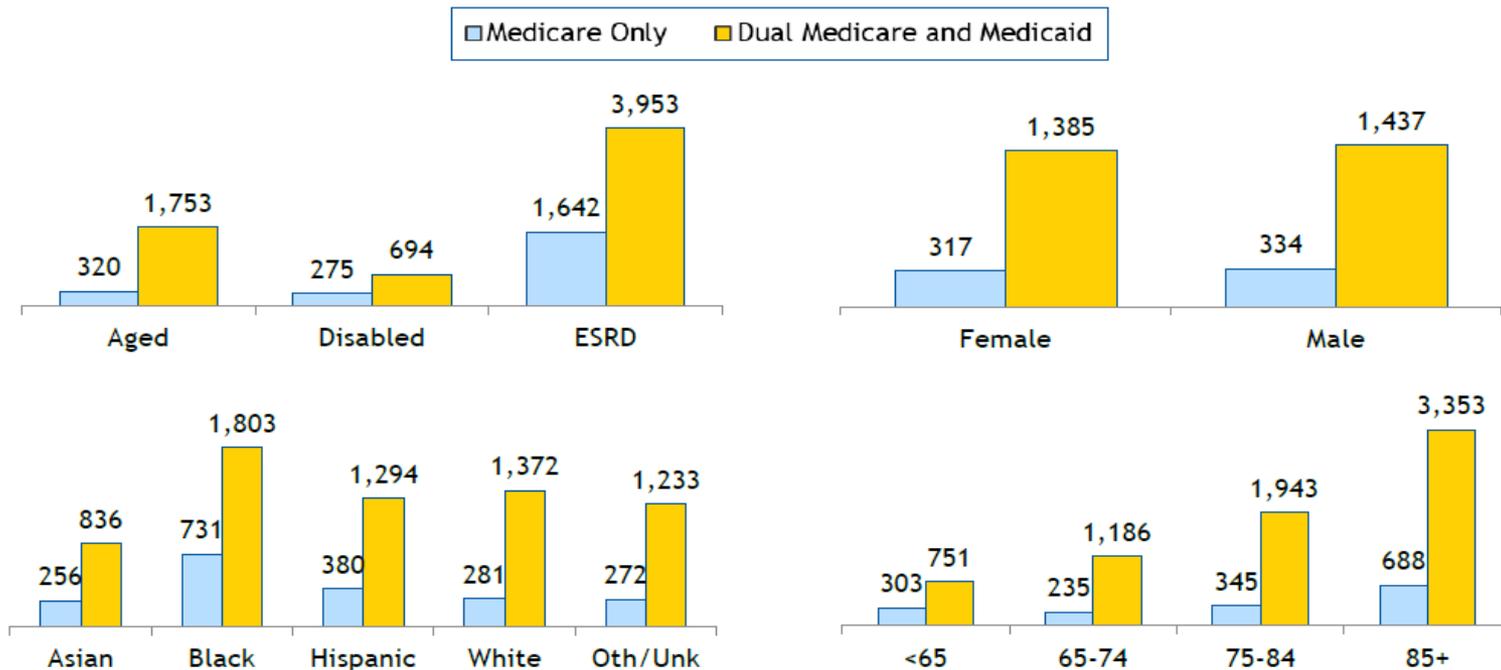
## COVID-19 Cases

**326,674** Total COVID-19 Cases

**518** COVID-19 Cases per 100K

### COVID-19 Cases per 100K by Beneficiary Characteristics

-Medicare Only vs. Dual Medicare and Medicaid Eligibility-

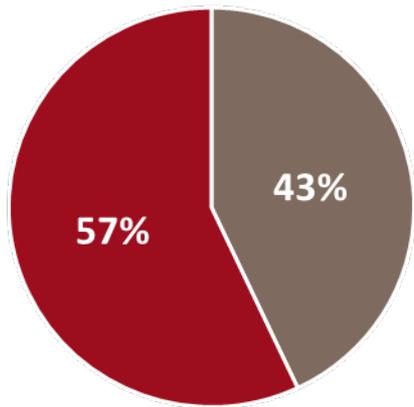


**Disclaimer:** All data presented in this update are preliminary and will continue to change as CMS processes additional claims and encounters for the reporting period. COVID-19 cases are identified using the following ICD-10 diagnosis codes: B97.29 (from 1/1-3/31/2020) and U07.1 (4/1/2020 and after). Medicare claims and encounter data are collected for payment and other program purposes, not public health surveillance, so caution must be used when interpreting the data. For additional details on data limitations, please see page 2 of this data update and view the methodology document available [here](#).

# The LTSS Population

Populations who use LTSS are particularly vulnerable to contracting COVID-19 and experiencing severe cases due to their age or because they often live with one or more chronic conditions.

## COVID-19 Deaths



■ Non-Nursing Homes ■ Nursing Homes

*Nursing home residents are 1% of the U.S. population.*

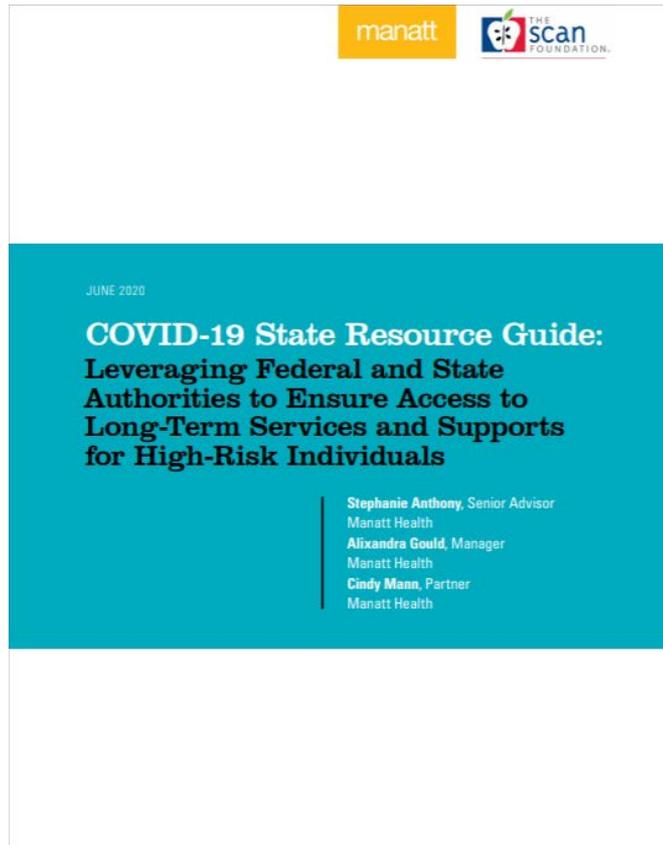
- People with developmental disabilities living in group homes are [four times](#) more likely than the general population to contract COVID-19 and twice as likely to die if they do contract it.
- 10 million individuals receive assistance at home or in their communities. In many cases this care has been disrupted due to COVID-19, risking their ability to remain in their home.
- As the pandemic continues, it is imperative that states with growing cases learn from the experience of previously hard hit states.

# THE STATE RESOURCE GUIDE

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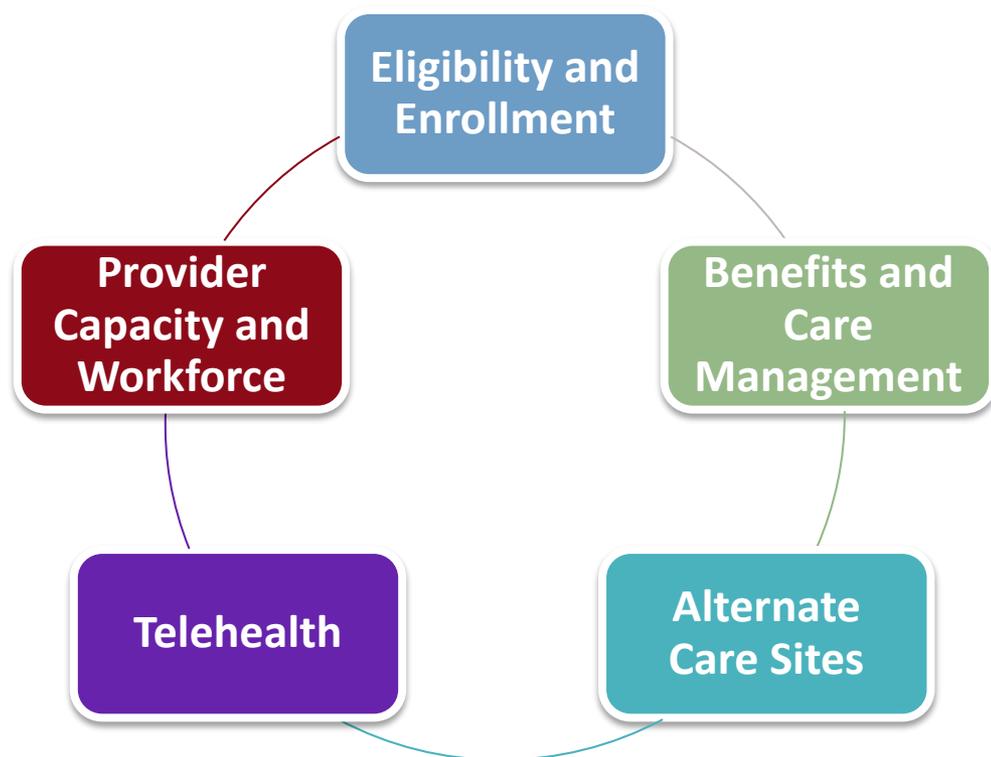
# State Tools for Ensuring Access to LTSS



- Identifies LTSS-related federal and state Medicaid flexibilities available to policymakers.
- Explores specific examples how states have deployed those flexibilities during COVID-19 to help ensure access to LTSS.
- Highlights state policy goals in implementing flexibilities available during the COVID-19 public health emergency.
- Identifies the relevant state or federal authority and links to available application templates.
- Available online at:  
<https://www.manatt.com/insights/white-papers/2020/covid-19-state-resource-guide-leveraging-federal-a>

# Policy Areas Addressed in Resource Guide

States are using federal regulatory flexibilities and state administrative actions to address various policy areas. Many flexibilities and actions have an impact across multiple policy areas.



## Available Authorities

- 1135 Waiver (blanket and state-specific).
- 1115 Waiver.
- 1915(c) Appendix K.
- Disaster Relief SPA.
- State Executive Order.
- State Administrative Action.

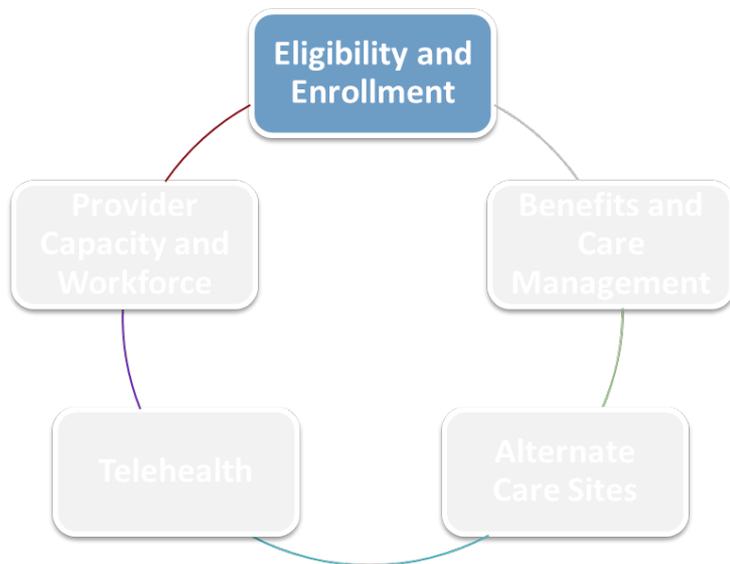
# Available Emergency Regulatory Flexibilities

1135 Waivers	1915(c) Appendix K	Disaster Relief SPAs	State Administrative Action
<ul style="list-style-type: none"> <li>• Issued by HHS and CMS, including “blanket” waivers and state-specific waivers.</li> <li>• Apply to Medicare and Medicaid.</li> <li>• Authority is only available during an emergency declaration. Flexibilities authorized under 1135 waivers terminate when the emergency declarations expires.</li> </ul>	<ul style="list-style-type: none"> <li>• States can submit an Appendix K before or during an emergency, with provisions going into effect in the event of an emergency.</li> <li>• Each state request includes an anticipated end date for the flexibility.</li> </ul>	<ul style="list-style-type: none"> <li>• State Plan Amendments can be retroactive to the first day of the quarter when the amendment was submitted to CMS or earlier under 1135 waiver authority.</li> <li>• States can request that flexibility ends when emergency declaration expires or at an earlier date.</li> </ul>	<ul style="list-style-type: none"> <li>• May include executive orders, administrative directives issued by the state Medicaid agency, and amendments to managed care plan contracts.</li> <li>• End date for flexibility depends on specific state authority used.</li> </ul>

When the COVID-19 public health emergency expires, states can use state plan amendments and state administrative actions, plus 1915(c) waivers and 1115 waivers to maintain some policy changes implemented in response to COVID-19.

# Eligibility and Enrollment

Flexibilities seek to expedite or expand access to LTSS by easing financial and clinical eligibility requirements for LTSS and removing barriers that could jeopardize eligibility for services.



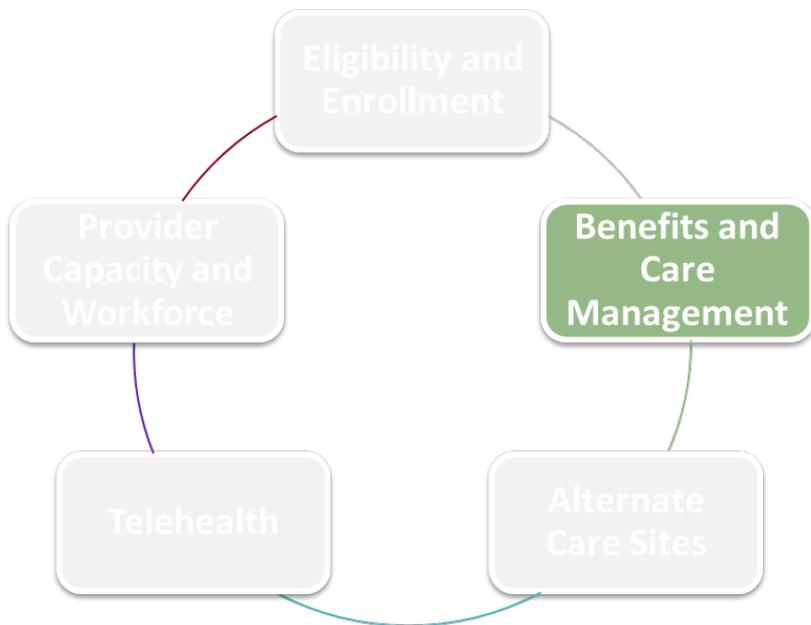
**Policy Goal** Increase the availability of HCBS in order to prevent a beneficiary from losing access to services or minimize the number of individuals receiving care in acute or institutional settings.

**Available Flexibilities or Actions** Using a 1915(c) Appendix K, states can modify or expand the population a 1915(c) waiver targets. States can also increase the limit on an individual's expected cost of HCBS for eligibility to enroll in a 1915(c) waiver.

**State Example** [Kansas](#) suspended the requirement that HCBS waiver participants receive at least one service every 30 days, so that participants who can't receive services due to COVID-19-related disruptions beyond their control (e.g., stay-at-home orders) are not at risk of being disenrolled from the waiver.

# Benefits and Care Management

Flexibilities seek to ensure easy access to services during the pandemic by expanding self-direction opportunities, covering new services, removing prior authorization requirements, and easing administrative requirements.



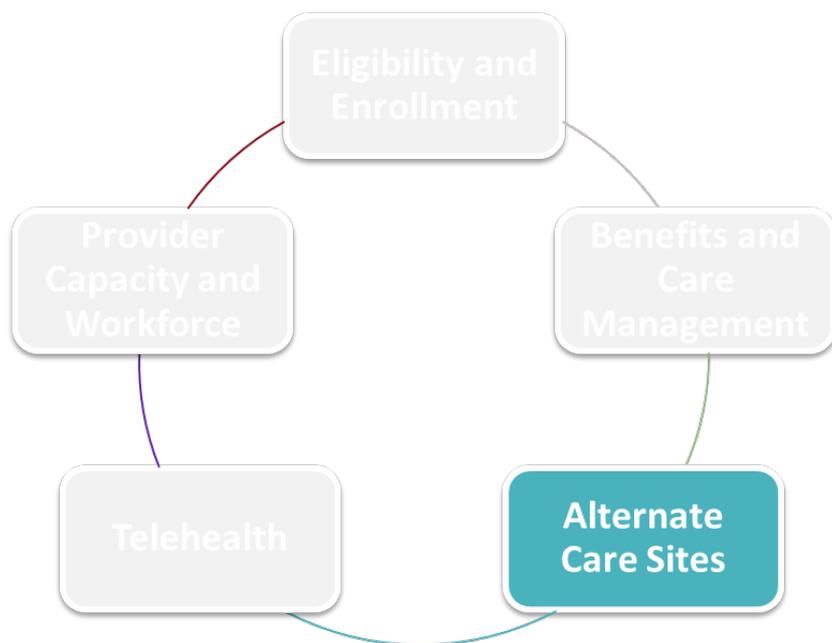
**Policy Goal** Suspend or modify administrative requirements to access care to prevent gaps in services when in-person visits are not possible due to stay-at-home orders or other social distancing requirements.

**Available Flexibilities or Actions** Using an 1135 Waiver, states can suspend prior authorization requirements or extend existing authorizations for fee-for-service services, and modify level-of-care or medical necessity evaluation requirements, including allowing remote assessments.

**State Example** [Alaska](#) residents seeking to enroll in an HCBS waiver can receive an initial level-of-care evaluation via telephone or other technological platform.

# Alternate Care Sites

Flexibilities seek to protect beneficiaries and workers from contracting COVID-19, or mitigating the spread of COVID-19, by cohorting COVID-19-positive beneficiaries in separate care sites, and expanding allowable HCBS settings.



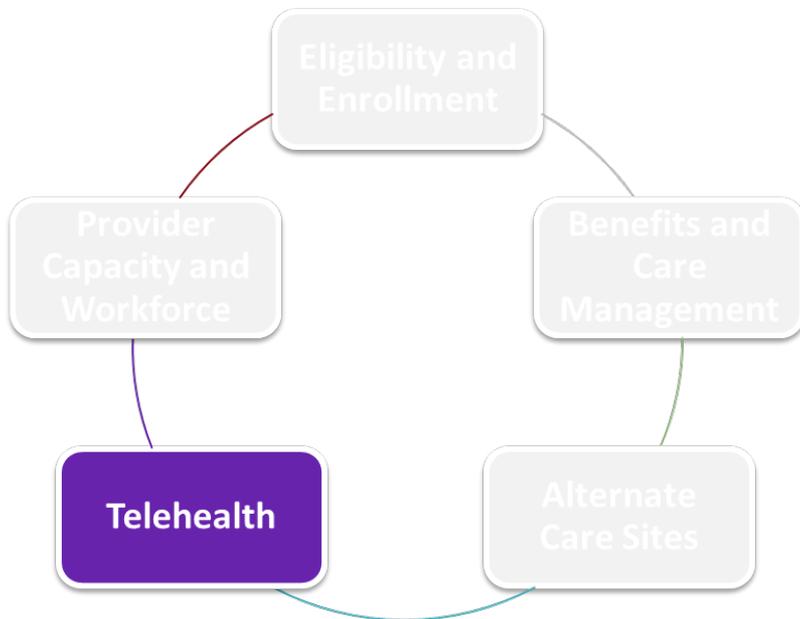
**Policy Goal** Segregate individuals with confirmed COVID-19 to minimize spread in nursing homes.

**Available Flexibilities or Actions** States can use executive orders or other state administrative action to establish COVID-19-only facilities for nursing home residents and hospital discharges requiring a nursing home level of care.

**State Example** [Michigan](#) helped congregate care facilities to separate or cohort COVID-19-positive residents from other residents by designating “regional hubs” to treat COVID-19-positive residents who do not require hospitalization.

# Telehealth

Flexibilities seek to protect beneficiaries from contracting COVID-19 by expanding and supporting the use of telehealth, in place of in-person visits, for care management and care delivery activities.



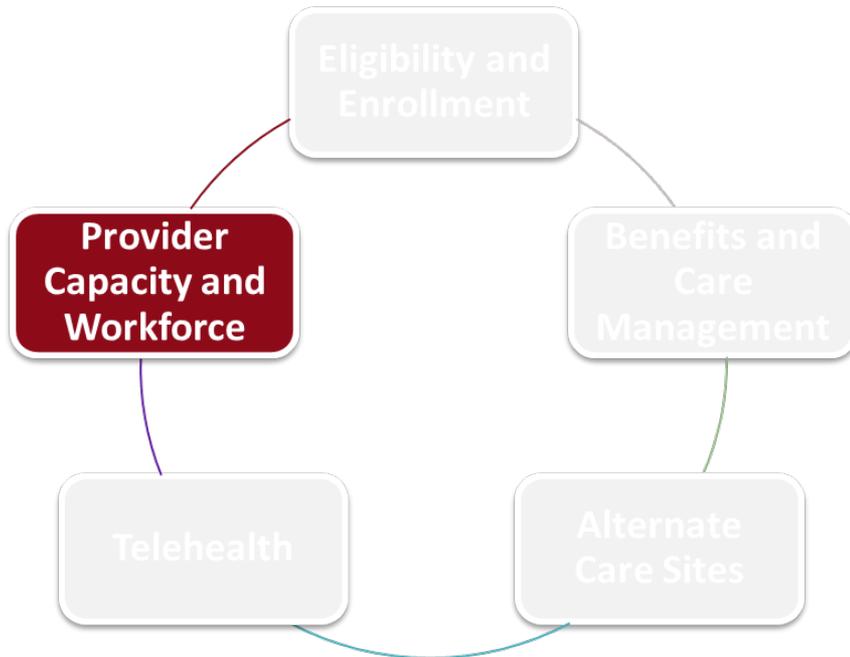
**Policy Goal** Provide care virtually to minimize exposure to COVID-19 for beneficiaries and providers.

**Available Flexibilities or Actions** States can use state administrative action to reimburse for telehealth at in-person rates and modify provider types who can provide services remotely.

**State Example** [Massachusetts](#) providers can deliver clinically appropriate, medically necessary Medicaid-covered services via telephone or live video and receive in-person reimbursement rates.

# Provider Capacity and Workforce

Flexibilities seek to expand the pool of and financially support LTSS providers and workers to ensure beneficiaries can receive services to which they are entitled during the COVID-19 pandemic.



**Policy Goal** Ensure provider sustainability in light of lost revenue due to increased cost related to COVID-19.

**Available Flexibilities or Actions** States can use a disaster relief SPA and 1915(c) Appendix K to temporarily increase payment rates for nursing homes and HCBS to maintain provider capacity.

**State Example** [New Mexico](#) increased rates by 30% to nursing facilities for residents who test positive for COVID-19 and need inpatient level of care in a nursing facility setting.

# Looking Ahead

States are turning their attention to winding down flexibilities and establishing a process for “toggling” flexibilities on and off during future COVID-19 outbreaks and other public health emergencies.

- When the COVID-19 public health emergency expires, states can use state plan amendments and state administrative actions, plus 1915(c) waivers and 1115 waivers to maintain some policy changes implemented in response to COVID-19.
- States should analyze the flexibilities granted in response to COVID-19 against their post-COVID-19 LTSS system needs and identify authorities available to make beneficial changes permanent.

## Examples

- ✓ Quickly establish alternate care sites.
- ✓ Maintain expanded use of telehealth.

# Non-Public Health Emergency Authorities

States should analyze the flexibilities granted in response to COVID-19 against their post-COVID-19 LTC system needs and identify authorities available to make beneficial changes permanent.

Policy	COVID-19 Authority	Permanent Authority
Provide home care services via telehealth platforms	1135 Blanket Waiver, Disaster Relief SPA (for state plan benefits)	Federal regulatory change and SPA
Required face-to-face encounters may occur via telehealth platforms	1135 Blanket Waiver	SPA or 1915(c) waiver
Reimburse for telehealth services at in-person rates	State Administrative Action	State Administrative Action or SPA
Physicians may delegate required physician visits to a nurse practitioner or physician assistant	1135 Blanket Waiver	Regulatory Change
Allow a care recipient's family members to provide waiver services or 1905(a) personal care services	1915(c) Appendix K (for waiver services) or 1135 State Waiver	SPA or 1915(c) waiver
Expand opportunities for self-directed services	1915(c) Appendix K	1915(c) waiver
Modify level-of-care or medical necessity evaluation requirements, including allowing remote assessments	1135 State Waiver or 1915(c) Appendix K	SPA or 1915(c) waiver
Modify waiver service, scope or coverage, and added services to 1915(c) waivers	1915(c) Appendix K	1915(c) waiver

# STATE PERSPECTIVES

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# California



## California's Use of Federal and State Policy Flexibilities to Ensure Access to Long-Term Services and Supports During the COVID-19 Pandemic

POLICY BRIEF • JUNE 2020

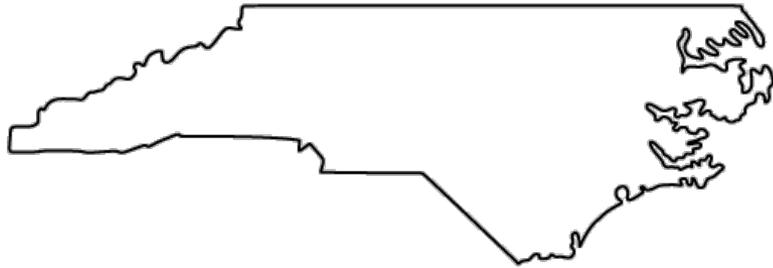
This policy brief takes a closer look at how California has implemented federal flexibilities to ensure the state's long-term services and supports (LTSS) system is responsive to the needs of older adults and people with disabilities during the COVID-19 pandemic.

Resource available at: <https://www.thescanfoundation.org/publications/californias-use-of-federal-and-state-policy-flexibilities-to-ensure-access-to-long-term-services-and-supports-during-the-covid-19-pandemic/>

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# North Carolina



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North Carolina Department  
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Services

# Questions?

The slides and a recording of the webinar will be available at [www.shvs.org](http://www.shvs.org) after the webinar

# Thank You

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# Additional Resources

1135 Waiver [Checklist](#)

1915(c) Appendix K [Template](#) and [Instructions](#)

Disaster SPA [Template](#)

1115 Waiver [Template](#)