

# State Actions to Support Medicaid LTSS During COVID-19

MaryBeth Musumeci

September 23, 2020

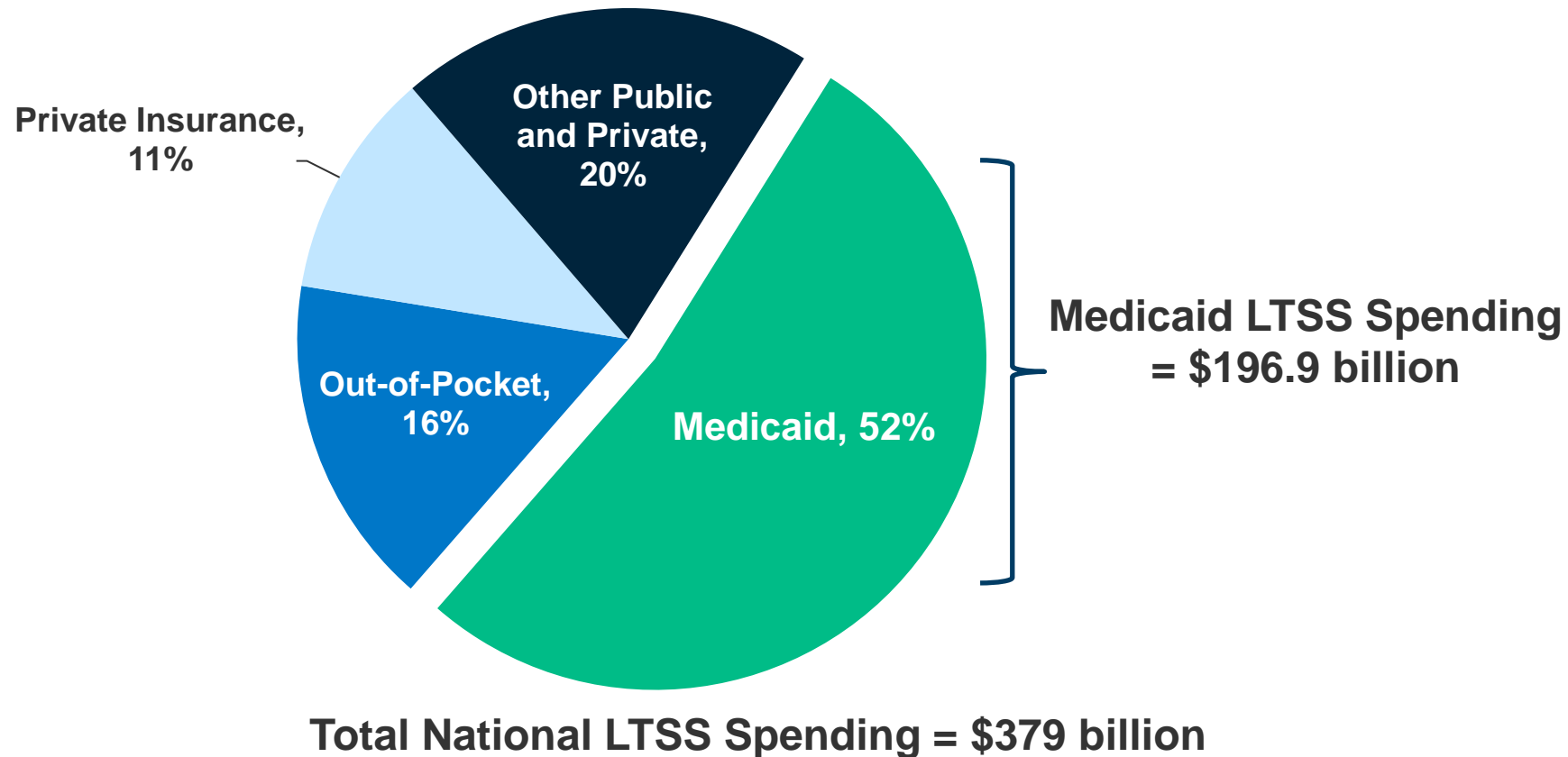
The Long-Term Care Discussion Group Webinar

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Figure 1

# Medicaid continues to finance the majority of long-term services and supports (LTSS), 2018.



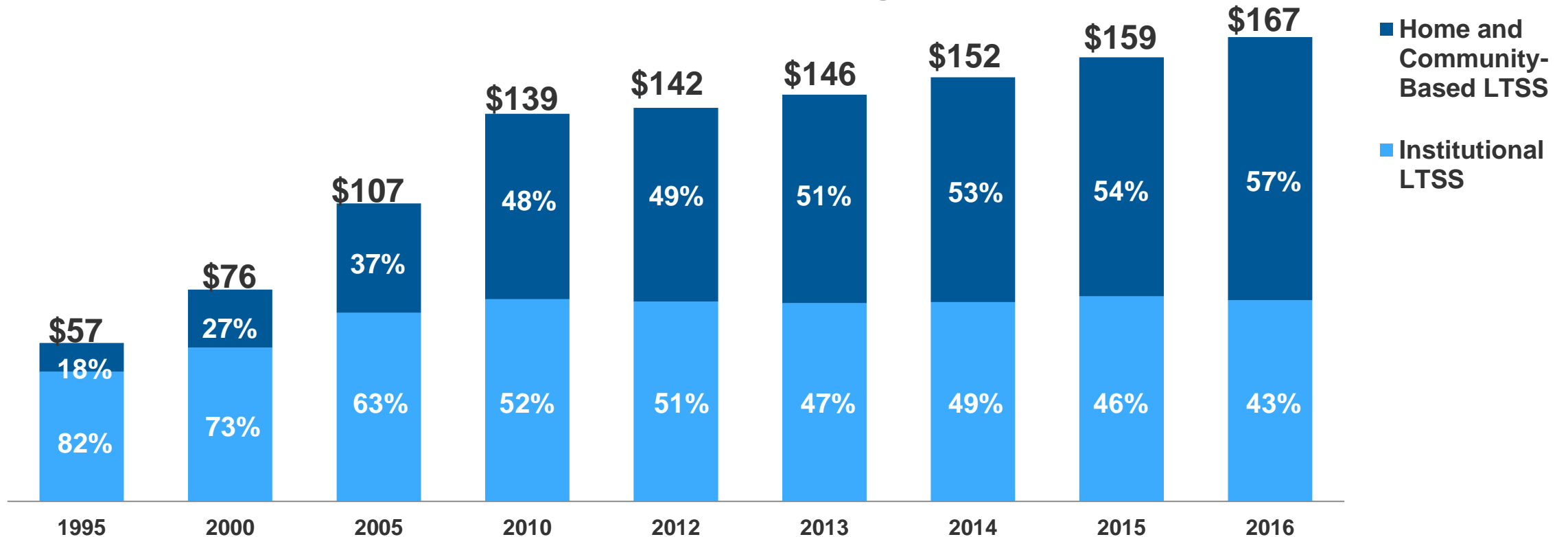
NOTE: Total LTSS expenditures include spending on residential care facilities, nursing homes, home health services, and home and community-based waiver services. Expenditures also include spending on ambulance providers and some post-acute care. This chart does not include Medicare spending on post-acute care (\$83.3 billion in 2018). All home and community-based waiver services are attributed to Medicaid.

SOURCE: KFF estimates based on 2018 National Health Expenditure Accounts data from CMS, Office of the Actuary.

Figure 2

# States have made steady progress shifting the balance of Medicaid LTSS spending from institutions to the community.

Annual Medicaid LTSS Spending, in billions:



SOURCE: Steve Eiken, Kate Sredl, Brian Burwell, and Angie Amos, Medicaid Expenditures for Long-Term Services and Supports in FY 2016 (IBM Watson Health, May, 2018), <https://www.medicaid.gov/medicaid/ltss/downloads/reports-and-evaluations/ltss expenditures2016.pdf>.

Figure 3

# COVID-19 has disproportionately impacted people who use LTSS.

## Who needs LTSS?

People who use LTSS may have:

- ✓ Cognitive disabilities
- ✓ Physical disabilities
- ✓ Disabling chronic conditions
- ✓ Aging-related disabilities

## Why are they at risk?

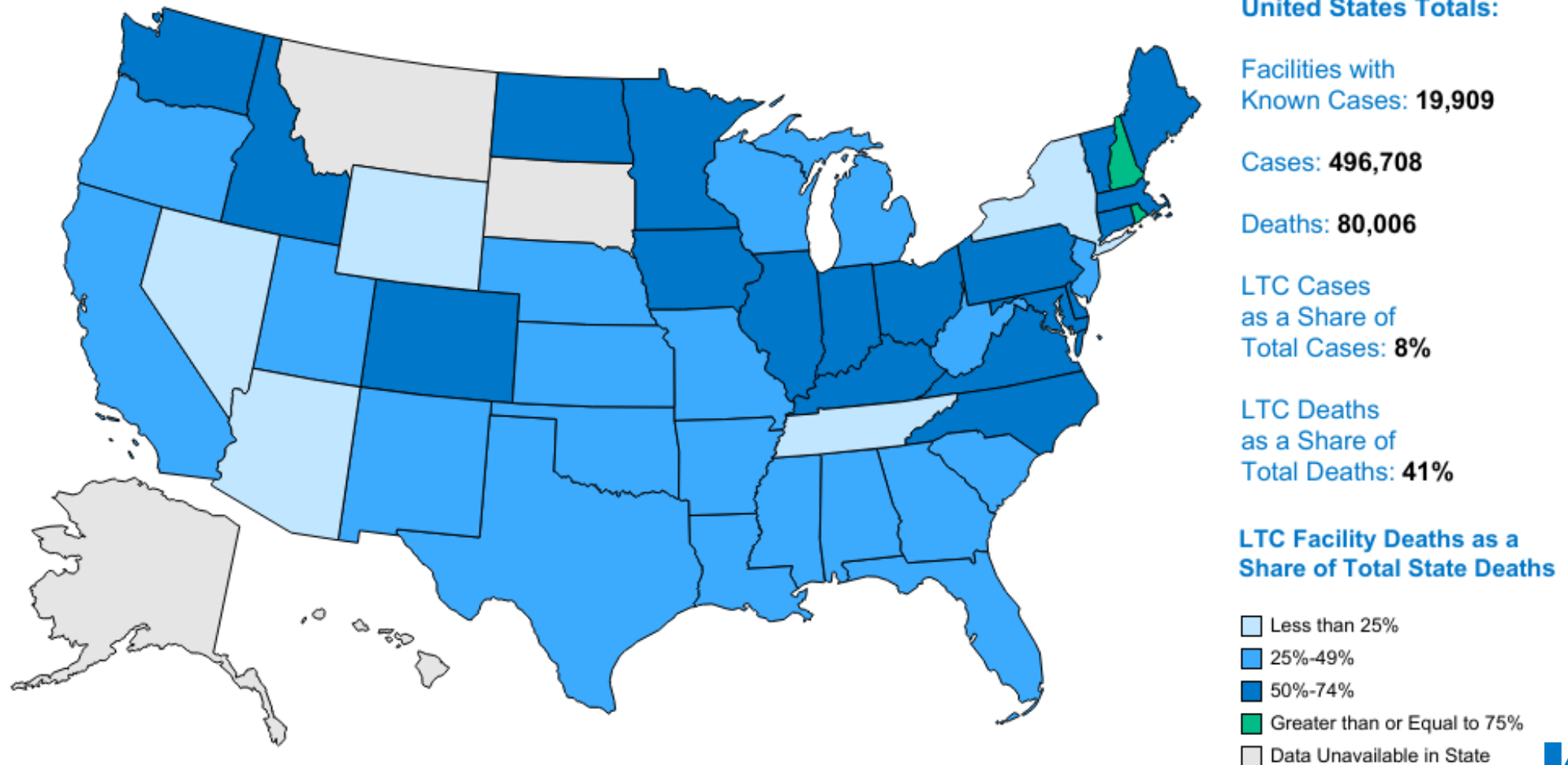
- ✓ Old age and chronic illness
- ✓ Residence in congregate settings such as nursing homes or group homes

## Why does LTSS matter?

- ✓ Seniors and people with disabilities rely on Medicaid LTSS for daily self-care and independent living needs
- ✓ Crucial for coverage and access to care to continued uninterrupted during the pandemic

Figure 4

As of September 17, 2020, deaths in long-term care facilities comprise over 40% of all COVID-19 deaths.



SOURCE: KFF, [State Data and Policy Actions to Address Coronavirus](#) (Sep. 2020).



Figure 5

# States have adopted policies to support Medicaid LTSS using a variety of emergency authorities.

Authority	Description	Expiration
<b>Disaster-Relief SPA</b>	Temporary changes to eligibility, enrollment, premiums, cost-sharing, benefits, payment.	End of PHE or earlier
<b>Traditional SPA</b>	Change state plan provisions, such as eligibility, services, payment.	When subsequently amended or terminated
<b>HCBS Waiver Appendix K</b>	Temporary changes to provisions such as eligibility, services, payment, provider qualifications, service planning, incident reporting, settings to respond to emergency.	1/26/21, or earlier
<b>Section 1115 Waiver</b>	Waive regular program rules to protect health, safety, and welfare of individuals and providers affected by COVID-19.	60 days after PHE ends or earlier
<b>Section 1135 Waiver</b>	Waive regular program rules to ensure sufficient health care services available to meet enrollee needs and reimburse providers.	End of PHE, per CMS guidance

NOTE: PHE = public health emergency

SOURCE: KFF, [State Actions to Sustain Medicaid Long-Term Services and Supports During COVID-19](#) (Aug. 2020).



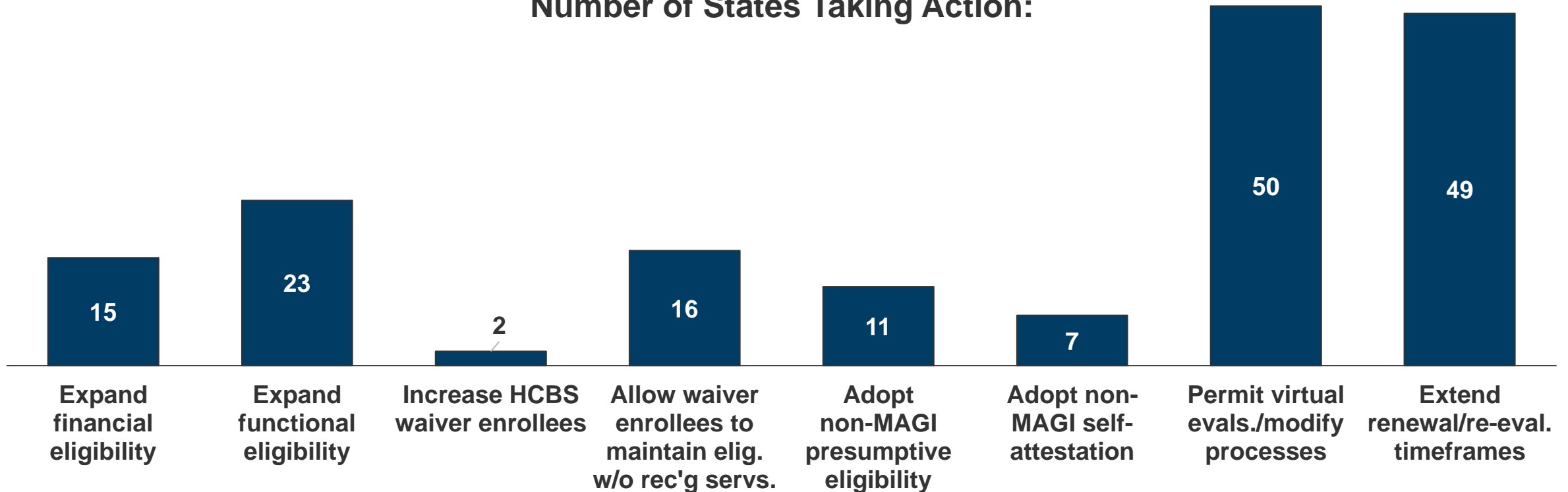
# Retainer payments during the pandemic are limited to three 30-day episodes.

- Allow provider to continue to bill for care plan services that circumstances prevent an individual from receiving, such as:
  - Acute spell of illness or other medically necessary absence from HCBS setting
  - COVID-19 self-quarantine or temporary program closure
- Available for personal assistance services under 2000 *Olmstead* guidance:
  - Lesser of 30 consecutive days or number of days for which state authorizes nursing facility bed hold
  - No limit on number of episodes
- Up to 30 days available in Section 1915 (c) waiver or Section 1915 (i) or (k) SPA
- Up to three 30-day episodes during disasters through Appendix K or Section 1115, with guardrails:
  - Limit to reasonable amount, e.g. percent of current rate
  - Ensure recoupment if duplicate payments
  - Provider attest to not laying off staff and maintaining wages

Figure 7

Nearly all states have streamlined enrollment processes, while about half have expanded eligibility criteria, as of 8/21/20.

Number of States Taking Action:



NOTE: LTSS = long-term services and supports. HCBS = home and community-based services.

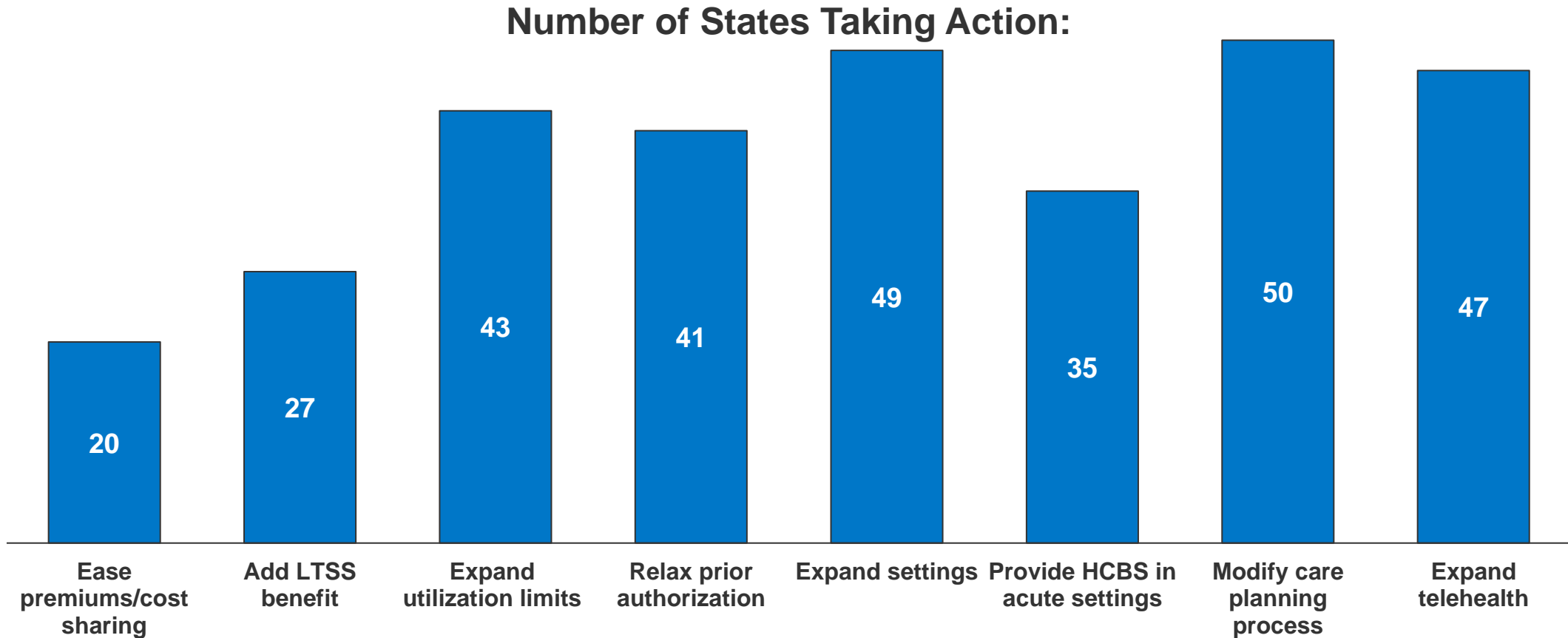
SOURCE: KFF analysis of approved [Appendix Ks](#) and the [Appendix K Template](#); [approved SPAs](#) and the [Medicaid Disaster Relief SPA Template](#); approved COVID-19 Public Health Emergency [Section 1115\(a\) demonstrations](#); approved [Section 1135 waivers](#); and Medicaid actions to address COVID-19 posted on publicly available state websites.





Figure 8

Most states have increased service utilization limits, relaxed prior authorization, and expanded telehealth, as of 8/21/20.



NOTES: LTSS = long-term services and supports. HCBS = home and community-based services.

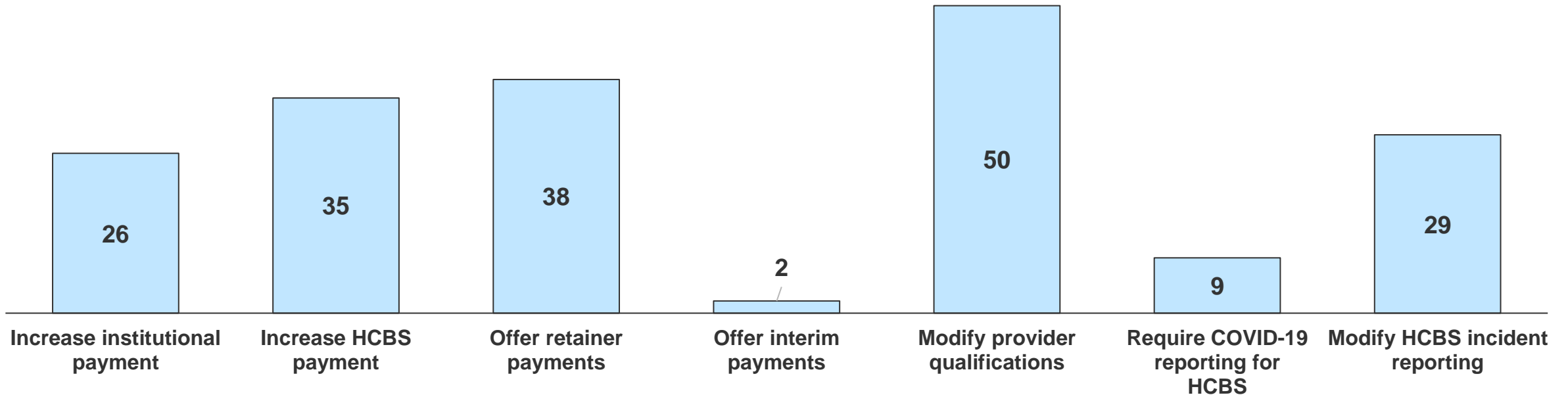
SOURCE: KFF analysis of approved [Appendix Ks](#) and the [Appendix K Template](#); [approved SPAs](#) and the [Medicaid Disaster Relief SPA Template](#); approved COVID-19 Public Health Emergency [Section 1115\(a\) demonstrations](#); approved [Section 1135 waivers](#); and Medicaid actions to address COVID-19 posted on publicly available state websites.



Figure 9

Nearly all states have increased provider payment for at least 1 LTSS and modified provider qualifications, as of 8/21/20.

Number of States Taking Action:



NOTES: LTSS = long-term services and supports. HCBS = home and community-based services.

SOURCE: KFF analysis of approved [Appendix Ks](#) and the [Appendix K Template](#); [approved SPAs](#) and the [Medicaid Disaster Relief SPA Template](#); approved COVID-19 Public Health Emergency [Section 1115\(a\) demonstrations](#); approved [Section 1135 waivers](#); and Medicaid actions to address COVID-19 posted on publicly available state websites.

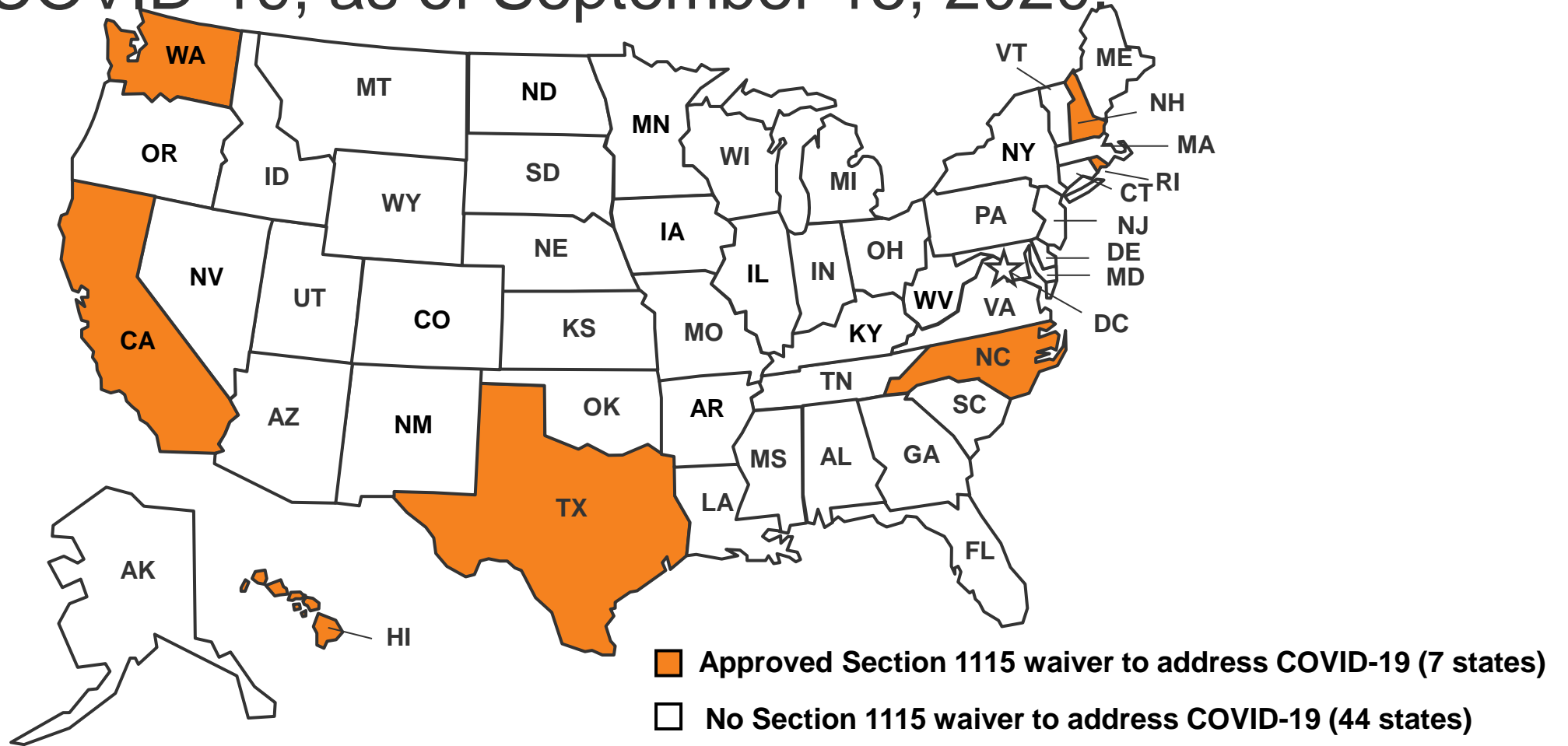


# CMS issued a March 2020 State Medicaid Director Letter inviting Section 1115 state demonstrations to respond to COVID-19.

- **Demonstration Purpose:**
  - “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 COVID-19”
- **Examples of Demonstration Template Provisions:**
  - Authorize retainer payments for personal care and habilitative state plan services providers
  - Allow self-attestation of income, assets, and level of care in LTSS eligibility determinations.
  - CMS may consider approving other provisions.
- **Application Process and Oversight:**
  - State and federal public comment periods and budget neutrality requirement do not apply.
  - States must complete a final monitoring and evaluation report one year after demonstration ends.
- **Duration:**
  - Can be retroactive to March 1, 2020 and will expire no later than 60 days after the public health emergency ends.

Figure 11

# Seven states have an approved Section 1115 waiver to address COVID-19, as of September 15, 2020



SOURCE: KFF, [Medicaid Emergency Authority Tracker: Approved Section 1115 Waivers to Address COVID-19](#) (Sept. 15, 2020)

# CMS approved the first emergency COVID-19 Section 1115 waiver in Washington in April 2020.

- **Approved:**
  - Retainer payments for personal care and habilitative state plan service providers
  - Allow self-attestation of income, assets, and level of care for LTSS eligibility
  - Vary amount/duration/scope and triage access to LTSS based on highest need
  - Provide LTSS even if care plan not updated timely or delivered in alternative setting
- **Still Under Review:**
  - Medicaid expenditure authority to create a Disaster Relief Fund to cover COVID-19 treatment costs for uninsured individuals, housing, nutrition supports and other COVID related expenditures
  - Retainer payments to home and community-based service providers beyond the 30-day limit
  - Allow transportation brokers to directly provide non-emergency medical transportation
- **Denied:**
  - New temporary eligibility group that would use Medicaid funds to provide additional subsidies for individuals enrolled in Marketplace Qualified Health Plans with income at or below 200% FPL

# Looking Ahead

- **Will states retain any LTSS policy changes after the public health emergency (PHE) ends?**
  - Will the PHE be extended beyond 10/23/20?
  - How will states transition once emergency authorities expire?
- **Will states be able sustain policy changes without additional federal fiscal relief?**
  - 6.2 percentage point FMAP increase expires at the end of the quarter when PHE ends
  - Current FMAP increase is unlikely to fully offset state revenue declines and address budget shortfalls
  - Economic impact of pandemic likely to persist beyond PHE period
- **How will the pandemic's impact in long-term care settings continue to be addressed?**
  - Policy recommendations for nursing homes and other institutional settings
  - Impact of COVID-19 in congregate community-based settings
- **How will the election affect Medicaid LTSS policies?**
  - Biden plan to increase access to HCBS
  - Trump proposals to cap federal financing and invalidate ACA, including HCBS options

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Thank you.