

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
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Center for Medicaid, CHIP and Survey & Certification

October 7, 2011

Mr. Thomas Betlach
Director
Arizona Health Care Cost Containment System
801 East Jefferson Street
Phoenix, AZ 85034

Dear Mr. Betlach:

The Centers for Medicare & Medicaid Services (CMS) is reviewing the State of Arizona's request for a new section 1115 Demonstration entitled the "Arizona Health Care Cost Containment System" (AHCCCS). The State notified CMS on March 31, 2011, that it was electing to terminate its existing Demonstration (project number 11-W-00032/09 and 21-W-00009/9) at the end of the demonstration period (September 30, 2011). In its March 31st letter, the State requested a new section 1115 demonstration containing many elements of the State's expiring Demonstration, but indicated its intention to eliminate the Medical Expense Deduction (MED) program and freeze enrollment for the childless adult eligibility group. The letter also sought additional authority to depart from Medicaid statutory provisions. On September 29, 2011, Arizona requested its existing demonstration be extended until October 14, 2011, to resolve outstanding issues necessary to transition to the new Demonstration.

This letter summarizes the status of CMS' review of Arizona's request for a new section 1115 demonstration, and encloses draft Special Terms and Conditions (STCs), waiver and expenditure authorities for the Demonstration for your comment. We appreciate the State's efforts in working with CMS to reach resolution of these matters in a timely manner.

The new Demonstration will, consistent with the State's request and its expiring Demonstration, provide for authorities that enable the State to provide health care services through a capitated managed care delivery model that operates statewide for Medicaid State plan groups and the Demonstration expansion group. The new Demonstration also will continue to provide the State authority to cover groups not currently covered under its Medicaid State plan, including childless adults who were enrolled prior to the July 8th enrollment freeze, individuals who lose SSI, and certain low-income individuals eligible for both Medicaid and Medicare (dual eligibles) who otherwise would not qualify for Medicaid payment of Part B premiums. The new Demonstration will test the benefits of Arizona's unique health care delivery system, the health benefits of providing coverage to a wider population, and the effects of increases in personal financial responsibility, targeted by population or service, on utilization and health outcomes.

CMS will work with the State to develop an evaluation design plan to test the hypotheses upon which the new Demonstration is based.

We have received the necessary information from the State on the following requests, and are prepared to approve the following:

- Expenditure authority for Medicare Part B premiums for beneficiaries who are dually eligible for Medicare and Medicaid, have income in excess of 135 percent of the Federal poverty level (FPL), but less than 300 percent of the Federal Benefit Rate (FBR), and do not qualify as a Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLMB), or as a Qualifying Individual (QI).
- Expenditure authority to provide an additional 60-day period of eligibility for beneficiaries who have lost Supplemental Security Income (SSI) eligibility in the prior month.
- Authority to not provide the early, periodic screening, diagnostic and treatment (EPSDT) benefit to 19- and 20- year olds covered under the childless adult group.
- Authority to impose co-payments on the childless adult population as permitted under the expiring Demonstration, subject to matters still under discussion and the State's forthcoming evaluation of the Demonstration.
- Authority to impose \$4 copayments on non-emergency medical transportation for childless adults residing in Maricopa and Pima counties as discussed, and agreed to in principle. American Indian/Alaskan Natives (AI/AN) childless adults would be exempt. This \$4 copayment would only apply to taxi rides, and would exempt other forms of non-emergency transportation. Additionally, as specified in the draft STCs, the State will evaluate the impact of the copayment on access to care, selection of transportation alternatives, and health outcomes for the childless adults residing in Maricopa and Pima counties relative to that of childless adults residing in other areas of the State.
- Time-limited authority to permit providers to charge a \$3 fee for parents and childless adults outside of Maricopa and Pima counties who miss scheduled appointments without providing 24 hour advance notice of any cancellation, subject to notice, program integrity, and reporting requirements as discussed and agreed to in principle. This authority would be linked to requirements for an independent evaluation of the copayment's effectiveness in reducing the rate of missed appointments, as well as its impact on access and health outcomes.

The draft STCs, waiver and expenditure authorities provide further detail on the requests identified in the six bullets above.

The following requests are not approvable as we cannot identify the legal and policy support for the request as required by the Social Security Act for the Secretary to approve a section 1115 demonstration, as discussed below.

- Waiver to permit the elimination of coverage for 60,000 parents with family income between 75 and 100 percent of the FPL. The State has not provided justification to support such an action except to achieve State savings, which is not a sufficient basis for approval of a waiver or demonstration under section 1115 of the Act. A section 1115 demonstration must be for an "experimental, pilot or demonstration" project that "is likely to further the objectives of the (Medicaid program)." We remain ready to help the State identify ways to reduce spending through efficiencies in its program and available program options consistent with the objectives of the Medicaid program.

- Authority to further reduce the enrollment level of the childless adult population based on available funding. No valid demonstration purpose, consistent with the Secretary's authority under section 1115 of the Act, has been offered, and maintaining the current coverage to childless adults is a key support for any finding that certain other aspects of the new proposed Demonstration further the objectives of the Medicaid statute.
- Authority to permit a change in eligibility procedures that would provide for eligibility redetermination every six months for the childless adult and parent populations, rather than the current 12-month schedule. No valid demonstration purpose consistent with the Secretary's authority under section 1115 of the Act has been offered to support these requests.
- Waiver of cost sharing limitations to permit co-payments on children, pregnant women and so-called Temporary Assistance to Needy Families (TANF) parents who are covered under the State's Medicaid State plan. Such a waiver for a State plan population (not a demonstration expansion population) is available only if consistent with the provisions of section 1916(f) of the Act. The State has not shown its request would be consistent that provision.
- Waiver to permit the State to eliminate coverage for Emergency Services for individuals who qualify for Medicaid except with respect to their immigration status. We do not have the legal authority under the Act to waive this provision of the law.
- Authority to impose a \$50 annual assessment on childless adults who smoke. The State has not addressed concerns that such fees will discourage enrollment and access to needed health care. In the course of our negotiations, we have offered alternative approvable approaches (that at this time the State has not accepted) as we support the State's desire to reduce tobacco use. We are prepared to work with the State on alternatives that meet the goal of reducing tobacco use, including establishing affirmative incentives and a tobacco quit line in accordance with the June 24, 2011, State Medicaid Director Letter (#11-007) allowing, for the first time, Medicaid funds to be used to support tobacco quit lines. We understand that the State has held preliminary discussions with the Regional Office with respect to this new flexibility provided to States.

On July 29, 2011, the State added two additional proposals to its request for a new Demonstration, requesting the establishment of a Safety Net Care Pool (SNCP), which would serve as an uncompensated care pool, and for an Arizona Health System Improvement Pool (AHSIP). CMS is not approving the creation of a SNCP at this time. We agree that it is important to address the need to maintain access to emergency room and other hospital care through a systems improvement funding pool, but we do not find a clear basis to determine that dedicating new resources to an uncompensated care pool in the context of a demonstration that otherwise reduces coverage is consistent with the objectives of the Medicaid program. However, we have offered some ways in which this uncompensated pool request could be accommodated, and we will seriously entertain the proposal for the systems improvement pool and continue to work with the State on these requests.

Finally, we note that in its March request, the State resubmitted its request for authority to exempt American Indian/Alaskan Natives (AI/AN) from recent benefit and eligibility changes. As you know, the request raises a number of complex issues. This request is important to us as well as to the State and to the Arizonan tribes. We have been very actively engaged in working through these issues and expect to have a decision in the near future.

I would like to once again thank you and your staff for your cooperation and assistance throughout these discussions. We appreciate that these are very difficult times and that Arizona continues to face significant fiscal pressures. Please be assured that we want to continue to work with Arizona on these matters, and do not hesitate to contact me, or my staff, with any questions about these decisions or with respect to the draft STCs. The authorities for the current Demonstration have been extended through October 14, 2011, and CMS is prepared to work with the State to finalize the enclosed STCs, waiver and expenditure authorities as required to establish the new Demonstration by that date.

Sincerely,



Cindy Mann