DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop: S2-26-12
Baltimore, Maryland 21244-1850

February 16, 2024

Carmen Heredia
Cabinet Executive Officer and Executive Deputy Director
Arizona Health Care Cost Containment System
801 East Jefferson Street
Phoenix, Arizona 85034

Dear Director Heredia:

The Centers for Medicare & Medicaid Services (CMS) is approving an amendment with two policies, "Parents as Paid Caregivers" (PPCG) and "KidsCare Expansion," to the demonstration titled, "Arizona Health Care Cost Containment System (AHCCCS)" (Project Number 11-W-00275/9 and 21-W-00074/9) (the "demonstration"), in accordance with section 1115(a) of the Social Security Act (the Act).

Approval of the Parents as Paid Caregivers amendment will allow the state to continue to reimburse legally responsible parents of minor children (hereinafter referred to as "parents") for providing direct care to their minor children, helping to mitigate the direct care worker shortage and improve access to timely, effective care in the home and community. The amendment also establishes a Family Support service as part of the home and community-based services (HCBS) benefit package. The Family Support service aims to support primary caregivers, including parents, and improve access to timely, effective care in the home and community. Additionally, the KidsCare Expansion amendment will allow the state to increase the Children's Health Insurance Program (CHIP) (known in the state as KidsCare) eligibility thresholds from 200 percent of the federal poverty level (FPL) up to and including 225 percent of the FPL, with the flexibility for KidsCare coverage to go up to and include 300 percent of the FPL, subject to approval by the state legislature. The approval is effective as of the date of this letter and will remain in effect through the demonstration approval period, which is set to expire September 30, 2027.

CMS's approval of this section 1115(a) demonstration, as amended, is subject to the limitations specified in the attached waiver and expenditure authorities, special terms and conditions (STCs), and any supplemental attachments defining the nature, character, and extent of federal involvement in this project. The state may deviate from Medicaid or CHIP state plan requirements only to the extent those requirements have been specifically listed as waived or not applicable to expenditures under the demonstration.

Extent and Scope of Demonstration Amendment

During the COVID-19 public health emergency (PHE), the traditional provider workforce was diminished leading to inadequate capacity to provide medically necessary services such as supporting activities of daily living (ADLs). To alleviate this provider workforce shortage, Arizona submitted and received approval on April 6, 2020, for a temporary Attachment K PHE flexibility to allow parents to be reimbursed for the provision of the "extraordinary care" that was required of them throughout the course of the pandemic, and ordinarily provided by direct-care workers. As defined in the STCs, "extraordinary care" is defined as "care that exceeds the range of activities that a… parent of a minor child would ordinarily perform in the household on behalf of the recipient… minor child, if he/she did not have a disability or chronic illness, and which is necessary to assure the health and welfare of the beneficiary and avoid institutionalization." Prior to the COVID-19 PHE, parents of minor children were not paid for extraordinary care. As the PHE continued, workforce challenges were exacerbated, and the delivery system became more reliant on parents providing authorized paid care. The PPCG program continues to be a critical lifeline for children with complex needs and their families. AHCCCS received an extension of the Attachment K authority through March 29, 2024. The state determined the need to make payments to parents as caregivers a permanent flexibility through a section 1115 demonstration amendment. The growing gap between the direct care workforce supply and demand, coupled with the projected increase in the Arizona Long Term Care System (ALTCS) population, makes it clear that continuing the PPCG program is essential to ensuring beneficiaries receive the care they need. Any individual, regardless of relationship, can apply to be a direct care worker and, if employed by an AHCCCS Registered Direct Care Service Agency, provide personal care services to a qualified beneficiary based on medical necessity and beneficiary preference.

Today, CMS is approving expenditure authority that will allow Arizona to make payments for caregiver services, including personal care and habilitation, provided by parents of eligible minor ALTCS beneficiaries in the PPCG program. CMS supports states seeking to extend this authority on a longer-term basis. This approval builds on the state's existing authority for spouse caregivers to be paid for providing extraordinary care. Parents who provide these services must meet all requirements as established by the STCs, including being employed or contracted by an AHCCCS Registered Direct Care Service Agency, demonstrating competency to provide care including passing specific competency tests, and complying with Electronic Visit Verification per the 21st Century Cures Act. The services and number of authorized hours will be assessed and determined through the Person-Centered Service Planning (PCSP) process. Additionally, under this amendment, the state intends to implement a phased-in approach, which will be detailed in the quarterly monitoring reports, for a 40-hour weekly limit for paid care by parents.

CMS is also approving expenditure authority to provide the Family Support service to primary caregivers of children and adults enrolled in the ALTCS program. The service will be provided by staff with demonstrated competencies in providing the service as well as with lived experience in supporting a family member enrolled in the ALTCS program. Family Support may involve activities such as assisting the family to learn skills related to adjustment to the beneficiary's disability, aging process, significant life events, or transitions; enhancing and improving the health and well-being of the beneficiary and family unit; navigating the health care system; self-advocacy; development of natural supports and community support systems; participating in the PCSP development; and implementation of individual and family goals and

long-term life planning. Family support is limited to ALTCS beneficiaries who are residing at home and will not supplant case management services.

Additionally, with this approval, the AHCCCS will have the authority to raise the CHIP eligibility thresholds from 200 up to and including 225 percent of the FPL, therefore expanding eligibility under KidsCare. Further, this amendment provides Arizona with the flexibility to increase KidsCare eligibility up to 300 percent of the FPL, subject to approval by the state legislature, without the submission of a formal amendment, as long as the state complies with public notice and tribal consultation processes, as specified under 42 CFR 431.408, and provides CMS with at least 60 days' notice prior to implementation. The state will only be allowed to make upward adjustments to the eligibility threshold, up to and including 300 percent of the FPL, subject to approval by the state legislature. The state is required to comply with all existing rules for operating within the available CHIP allotment and, as necessary, requesting an increase in allotment. Any reduction in eligibility limit would require submission of a formal amendment as described in the STCs.

Arizona estimates that an additional 9,700 children under age 19 will be eligible for KidsCare with this expansion. This request is in alignment with Arizona Senate Bill 1726, which provided state authority to expand KidsCare eligibility to include individuals with income at or below 225 percent of the FPL. Approval of this demonstration amendment is likely to promote the objectives of the CHIP program by expanding coverage to low-income children. CMS's approval of this amendment is subject to the limitations specified in the attached waiver and expenditure authorities, STCs, and any supplemental attachments defining the nature, character, and extent of federal involvement in this project.

Budget Neutrality

Under section 1115(a) demonstrations, states can test innovative approaches to operating their Medicaid programs if CMS determines that the demonstration is likely to assist in promoting the objectives of the Medicaid statute. CMS has long required, as a condition of demonstration approval, that demonstrations be "budget neutral," meaning the federal costs of the state's Medicaid program with the demonstration cannot exceed what the federal government's Medicaid costs in that state likely would have been without the demonstration. In requiring demonstrations to be budget neutral, CMS is constantly striving to achieve a balance between its interest in preserving the fiscal integrity of the Medicaid program and its interest in facilitating state innovation through section 1115 approvals and amendments. In practice, budget neutrality generally means that the total computable (i.e., both state and federal) costs for approved demonstration expenditures are limited to a certain amount for the demonstration approval period. This limit is called the budget neutrality expenditure limit and is based on a projection of the Medicaid expenditures that could have occurred absent the demonstration, the "without waiver" (WOW) costs.

The demonstration amendment is not expected to impact the overall number of people enrolled in the Medicaid program and is expected to be budget neutral. First, the amendment does not change the eligible populations, or the ALTCS program, rather it allows for an additional set of individuals to deliver existing approved services which are included in the state's budget

neutrality model. Second, the demonstration amendment adds the family support service, which could otherwise be covered under the state plan and is projected to be budget neutral to the federal government. The state will be held to the budget neutrality monitoring and reporting requirements as per the STCs.

CHIP Allotment Neutrality

Under this amendment, the state will be subject to a limit on the amount of federal title XXI funding that the state may receive on allowable demonstration expenditures during the demonstration period. CMS has long required, as a condition of demonstration approval, that demonstrations be "allotment neutral," meaning the federal title XXI funds for the state's CHIP program are restricted to the state's available allotment and reallocated funds. The state is eligible to receive title XXI funds for the demonstration population as described in STC 19, up to the amount of its title XXI allotment. Title XXI funds must be first used to fully fund costs associated with CHIP state plan populations. The demonstration expenditures are limited to remaining funds. In requiring demonstrations to be allotment neutral, CMS is constantly striving to achieve a balance between its interest in preserving the fiscal integrity of the CHIP program and its interest in facilitating state innovation and coverage through section 1115 demonstration approvals.

Monitoring and Evaluation

The state is required to conduct systematic monitoring and robust evaluation of the demonstration amendment in accordance with the STCs. In collaboration with CMS, the state must update its demonstration Monitoring Protocol to incorporate how it will monitor the amendment components, including relevant metrics data as well as narrative details describing progress with implementing the amendment.

The state is required to incorporate the amendment into its evaluation activities to support a comprehensive assessment of whether the initiatives are effective in producing the desired outcomes for beneficiaries and the state's overall Medicaid and CHIP programs. Evaluation of the KidsCare component of the amendment should assess the impact of expanding eligibility for the KidsCare program, including the premium requirement, on beneficiary enrollment, access, and health outcomes. The state must also evaluate the impact of the PPCG component on access to and quality of care. Additionally, the state's monitoring and evaluation efforts must facilitate understanding the extent to which the amendment might support reducing existing disparities in access to and quality of care and health outcomes.

Consideration of Public Comments

The federal comment period for the PPCG request was open from October 12, 2023, through November 11, 2023. CMS received a total of 64 comments, three of which were not on topic. Of the remaining 61 comments, 55 were supportive of the amendment policy and six were not. Many commenters shared their direct, positive experiences as paid parent caregivers, including how the PPCG program ameliorates the direct care workforce shortage and helps ensure beneficiaries get the right care when and where they need it.

Additionally, many commenters noted that while supportive of the state's request, they were concerned with the 40 hour per week, per child limitation. These commenters voiced their concern that some parent caregivers will have to provide unpaid extraordinary care to beneficiaries in need of more than 40 hours of services per week, and they requested the limitation be lifted or an extraordinary circumstances exemption be built into the program to allow for some parent caregivers to be paid beyond the limit. Although states are not required to under federal statute or regulations, they have the flexibility to define limitations or specific circumstances, including a cap on the number of weekly hours, under which legally responsible individuals and other family caregivers may be paid providers. Upon further engagement with stakeholders, the state decided to delay the phase-in timeline of the requirement to provide more time to update related policies and procedures and prepare case managers and parent caregivers. The state also reiterated that non-parent direct care workers would address care beyond the 40-hour limit for beneficiaries assessed for more than 40 hours of care services per week.

The federal comment period for the KidsCare Expansion request was open from November 20, 2023, through December 20, 2023. CMS received 13 comments on the policy, two of which were not on topic. The majority of the comments were positive, highlighting how expanding KidsCare is expected to improve the rate of child health insurance, increase access to affordable health care coverage, decrease costs by addressing health needs earlier, and provide financial relief for families. One comment did note that in some circumstances, programs such as KidsCare may not always reach those who need it. CMS appreciates all of the commentors interest in improving the health of children in Arizona and agrees that expanding KidsCare eligibility will likely have positive health impacts for the newly eligible children's population in the state.

After carefully reviewing the amendment request and the public comments submitted during the federal comment period, and all other relevant materials provided by the state, CMS has concluded that the approval of this amendment to the AHCCCS demonstration is likely to assist in promoting the objectives of Medicaid and CHIP.

Other Information

The award is subject to CMS receiving written acceptance of this award within thirty days of the date of this approval letter. Your project officer, Ms. Kate Friedman, is available to answer any questions concerning implementation of the state's section 1115(a) demonstration, and her contact information is as follows:

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Baltimore, MD 21244-1850
Email: Katherine.Friedman@cms.hhs.gov

We appreciate your state's commitment to improving the health of people in Arizona, and we look forward to partnering with you on the AHCCCS section 1115(a) demonstration. If you have questions regarding this approval, please contact Jacey Cooper, Director, State Demonstrations Group, Center for Medicaid and CHIP Services, at jacey.cooper@cms.hhs.gov.

Sincerely,

Daniel Tsai
Deputy Administrator and Director

Enclosures

cc: Brian Zolynas, State Monitoring Lead, Medicaid and CHIP Operations Group