

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



Daniel Tsai
Assistance Secretary, MassHealth
Executive Office of Health and Human Services
One Ashburton Place
Boston, MA 02108

JUN 27 2018

Dear Mr. Tsai:

The Centers for Medicare & Medicaid Services (CMS) has approved an amendment to Massachusetts' section 1115(a) Medicaid demonstration, entitled "MassHealth" (Project Number 11-W-00030/1). This amendment permits Massachusetts to provide Medicaid coverage to certain recipients and family members of recipients of state veteran annuities, who are otherwise eligible for Medicaid, except for the veteran annuity income. This amendment is effective as of the date of this approval letter through June 30, 2022.

Extent and Scope of Amendment

CMS is approving a new expenditure authority for this amendment to extend eligibility for MassHealth Standard, MassHealth CommonHealth, MassHealth CarePlus, MassHealth Family Assistance and MassHealth Limited benefits for certain individuals who would be eligible for such benefits but for the receipt of a state veteran annuity or the inclusion of such annuity in the household income.

State-funded veteran annuity payments are considered "countable" in the calculation of Modified Adjusted Gross Income (MAGI) for purposes of determining Medicaid eligibility. (By statute, Federal veterans' annuity benefits are not considered when determining Medicaid eligibility.) CMS and the Commonwealth are working together to use existing state plan flexibilities for most Medicaid beneficiaries who receive the state-funded veteran annuities. These flexibilities will allow the state to and retain eligibility through existing mechanisms for most of the potentially impacted individuals.

CMS has identified two groups for whom CMS will provide expenditure authority, through section 1115(a)(2) to avoid a loss in Medicaid coverage: those in Massachusetts' Program of All-Inclusive Care for the Elderly (PACE) eligibility group, and MAGI eligibility-based individuals who may be eligible for the annuity who have income exceeding the relevant income threshold after receipt of the veteran annuity and have employer sponsored insurance (ESI) available to

them that still meets federal affordability standards and causes them to lose access to subsidized marketplace coverage. In addition, CMS is modifying an existing provision of the demonstration, which defines the calculation of financial eligibility for disabled adults, to clarify that state veteran annuities are not countable.

Elements of Amendment Request CMS is not Approving

In this amendment request, Massachusetts also requested a number of additional flexibilities on which CMS continues to work with the state and that CMS is not approving at this time. These include its requests to limit premium assistance cost sharing wrap to MassHealth enrolled providers only; to implement narrower networks in MassHealth's primary care case management plan to encourage enrollment in Accountable Care Organizations (ACOs) and Managed Care Organizations (MCO).

With respect to Massachusetts' formulary proposals, CMS would be willing to consider a demonstration that would give the state the ability to exclude certain Medicaid covered outpatient drugs from coverage under its Medicaid program, as requested, on the condition that the state would drop optional State plan drug coverage under section 1902(a)(54) of the Social Security Act (the Act) so that individuals currently receiving coverage under section 1902(a)(54) could receive coverage of outpatient drugs under the expenditure authority in section 1115(a)(2). This would mean that, with respect to such individuals, drug coverage would no longer be provided in accordance with the provisions outlined in Section 1927 of the Social Security Act.

Under such a demonstration, with respect to individuals receiving drug coverage under section 1115(a)(2), the state would have to negotiate directly with manufacturers and forgo all manufacturer rebates available under the federal Medicaid Drug Rebate Program. The state could then be provided flexibility to exclude specific drugs from coverage based on cost-effectiveness or other approved criteria, or to employ a closed formulary structure similar to Medicare Part D or commercial plan formularies. Under such an approach, the state would have to ensure that federal expenditures under the demonstration would not exceed federal expenditures incurred without the demonstration.

The state's proposal was not consistent with these requirements. Specifically, Massachusetts submitted a request for a waiver of 1902(a)(54) to the extent it incorporates certain rules in section 1927, which would have allowed the State to continue to collect manufacturer rebates under Section 1927, while enabling the state to exclude certain drugs from coverage under very limited circumstances. Thus, this amendment approval package does not include the proposed drug coverage limitations. CMS supports the State's goal of lowering drug costs, and will continue to provide technical assistance on options to test innovative drug coverage mechanisms.

Massachusetts also requested waiver authority, via its application, to procure a selective network for specialty pharmacy for members in its Primary Care Clinician (PCC) Plan, Primary Care ACO models, and fee-for-service network. CMS and the Commonwealth had productive conversations and reached resolution on this request. However, as Massachusetts indicated it would not desire this authority in the absence of authority for a closed formulary, CMS will not be providing a waiver authority at this time.

CMS is not at this time approving Massachusetts's request to reduce income eligibility for certain MassHealth beneficiaries to 100 percent of the federal poverty level (FPL), and instead cover them through comparable coverage under the state's Exchange, and the request to waive all federal payments restrictions on care provided in Institutions for Mental Disease (IMDs) beyond what is already included in the state's approved demonstration.

Determination that the demonstration project is likely to assist in promoting Medicaid's objectives

Demonstration projects under section 1115 of the Act offer a way to give states more freedom to test and evaluate innovative solutions to improve quality, accessibility and health outcomes in a budget-neutral manner, provided that, in the judgment of the Secretary, the demonstrations are likely to assist in promoting the objectives of Medicaid.

CMS has determined that the amendment is likely to promote Medicaid objectives, and that the scope and duration of the expenditure authority sought is necessary and appropriate to carry out the demonstration. The expenditure authority will provide coverage to veterans and/or their household members who would otherwise be ineligible for Medicaid due to the income associated with the veteran annuity, which will promote improved health outcomes among those covered individuals.

Recipients of the state-funded veteran annuities or their family members may otherwise lack health insurance coverage, without Massachusetts' receipt of the expenditure authority provided by this amendment. One of Medicaid's objectives is to improve access to high-quality, person-centered services that produce positive health outcomes for individuals. It is in the interest of the Medicaid program to provide coverage to low-income family members receiving veteran annuities, as it supports continued access to coverage and services. In order for family members to receive the state annuity, the veteran must have died while in combat or in service of a military objective. Family members who would otherwise be ineligible due to the income of the veteran annuity would otherwise have a negative incentive to accept the annuity, and would still be relatively low income and in jeopardy of not having access to affordable healthcare.

CMS understands that relatively few states, if any, offer a similar state veteran's annuity. Evaluating this authority will help states determine whether offering an annuity impacts health for low income service members or their family members that might otherwise lose access to affordable healthcare coverage. Massachusetts will monitor and evaluate the expenditure authority provided by this amendment, in order to determine its impact for affected beneficiaries and the Medicaid program.

Consideration of Public Comments

CMS and Massachusetts received a number of comments during the state and federal comment periods. Consistent with federal transparency requirements, CMS reviewed all of the materials submitted by the Commonwealth, as well as all the public comments it received, when evaluating whether the demonstration project as a whole was likely to promote objectives of the Medicaid

program, and whether the waiver and expenditure authorities sought were necessary and appropriate to implement the demonstration. In addition, CMS took public comments submitted during the federal comment period into account as it worked with the Commonwealth to develop the special terms and conditions (STCs) that accompany this approval, and that will bolster beneficiary protections, including specific state assurances around these protections to further support beneficiaries.

Neither CMS nor Massachusetts received any formal feedback on the Commonwealth's request to expand coverage eligibility to recipients of the state veteran annuity or their family members. However, the Commonwealth indicates it received positive informal feedback from stakeholders that led it to propose this element, as well as in subsequent discussions.

CMS' approval of this demonstration is conditioned upon compliance with the enclosed list of waiver and expenditure authorities and the STCs defining the nature, character and extent of anticipated federal involvement in the project. The award is subject to our receiving your written acknowledgement of the award and acceptance of these STCs within 30 days of the date of this letter. Your project officer for this demonstration is Mr. Eli Greenfield. He is available to answer any questions concerning your demonstration project. Mr. Greenfield's contact information is as follows:

Your project officer for this demonstration is Eli Greenfield. He is available to answer any questions concerning your amendment. Mr. Greenfield's contact information is:

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Official communications regarding this demonstration should be sent simultaneously to Mr. Greenfield and Mr. Richard McGreal, Associate Regional Administrator (ARA) in our Boston Regional Office. Mr. McGreal's contact information is as follows:

Centers for Medicare & Medicaid Services
JFK Federal Building
Room 2325
Boston, MA 02203
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If you have any questions regarding this approval, please contact Mrs. Judith Cash, Director, State Demonstrations Group, Center for Medicaid & CHIP Services at (410) 786-9686.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Hill" with "on behalf of" written below it in a cursive script.

Tim Hill
Acting Director

cc: Richard McGreal, ARA, CMS Boston Regional Office