

CONCEPT PAPER

Pursuant to Section 1115 of the Social Security Act
and
Section 1332 of the Affordable Care Act (as applicable)

CONCEPT PAPER DATE: May 27, 2015

State of Michigan
Rick Snyder, Governor

Nick Lyon, Director
Michigan Department of Health and Human Services
201 Townsend Street
Lansing, MI 48913

I. Overview

As required by State law, the Michigan Department of Health and Human Services (Department) seeks approval from the federal government to modify the health care coverage program known as the “Healthy Michigan Plan.” Approval of this request would allow the State of Michigan to maintain coverage for approximately 600,000 individuals currently enrolled in the program.

State law, MCL 400.105d(20), directs the Department to seek a waiver that would allow individuals who are between 100% and 133% of the federal poverty level and have had Healthy Michigan Plan coverage for 48 cumulative months to choose one of the following options: 1) purchase private insurance through the federal Marketplace (with eligibility for advanced premium tax credits and cost sharing reductions), or 2) remain in the Healthy Michigan Plan with increased cost-sharing up to 7% of income (*see* MCL 400.105d(20), included as Attachment 1). The cost-sharing changes associated with the second option include an increase in enrollee contributions to 3.5% of income (with the opportunity to reduce their contributions by participating in healthy behavior activities). Individuals who fail to make an affirmative choice will remain in the Healthy Michigan Plan and be subject to the proposed increased cost-sharing requirements.

The Department believes that all of the concepts described above may be accomplished under the Section 1115 waiver demonstration authority as allowed under the Social Security Act. Section II of this document describes an approach to amending the State’s current Section 1115 waiver. This is the State’s preferred vehicle for implementing the next phase of the Healthy Michigan Plan envisioned by the State legislature. However, Section III of this document lays out an alternative pathway pursuant to the waiver authorities contained in Section 1332 of the Affordable Care Act, in the event the federal government would prefer to utilize that authority.

The Department looks forward to working with its federal partners at the relevant agencies throughout this process to achieve the aims required by State law and preserve coverage for all affected Michiganders.

II. 1115 Amendment Request

Consistent with the Special Terms and Conditions governing the Healthy Michigan Plan, the following is a description of the Department’s proposed amendment to the existing Section 1115 Demonstration.

a. Eligibility and Enrollment

For the population remaining in the Healthy Michigan Plan, the State’s enrollment broker will continue to facilitate enrollment in a health plan either through the auto-assignment process or by assisting beneficiaries as they make their selection. All other health plan enrollment processes set forth in the State’s approved §1915(b) waiver will be used. Individuals who choose health care coverage via the Marketplace will proceed through enrollment consistent with the procedures established by both the Marketplace and the applicable health plan.

b. Benefits

Beneficiaries covered by the Medicaid program under the proposed amendment will remain eligible for services consistent with the Medicaid State Plan. Individuals selecting coverage through the Marketplace will receive the essential health benefits through their qualified health plans (QHPs).

c. Delivery System

Michigan is a mature managed care state and will continue to utilize existing managed care delivery systems to provide services to the affected Medicaid population statewide. Covered services for the Medicaid population will be provided consistent with the authorities granted under the State's approved §1915(b) waiver and any other applicable waiver(s) relevant to the State's existing Healthy Michigan Plan §1115 demonstration. Individuals electing coverage through the Marketplace will receive services consistent with the requirements and standards of the Affordable Care Act and state insurance laws, and in a manner consistent with their plan choice.

d. Implementation

State law requires approval of the proposed amendment by December 31, 2015. The Department requests an implementation date of April 1, 2018, the first date on which an individual could reach the cumulative 48 month enrollment trigger.

e. Evaluation

The Department will ensure that its evaluation design for the current Section 1115 demonstration is updated to reflect the changes described herein. Specifically, the Department will evaluate how increased cost-sharing impacts utilization as well as the choice of coverage for the subset of beneficiaries affected by the above changes. Updates and additions will also be incorporated into the State's quality strategy as appropriate, and timely and accurate reporting on the implementation process will occur through the State's existing Section 1115 waiver reporting process, consistent with directives from the Centers for Medicare & Medicaid Services.

f. Cost Effectiveness and Budget Neutrality

The Department anticipates no increased costs as a result of the changes proposed above, therefore, the amendment is expected to be budget neutral.

g. Waivers and Expenditure Authorities

The Department seeks waiver of the following requirements of the Social Security Act:

- *Reasonable Promptness §1902(a)(8)*

To the extent necessary, allow individuals to waive Medicaid eligibility and instead obtain health insurance coverage through the Marketplace. Specifically, the Department seeks to eliminate the "reasonable promptness" requirement for those individuals with 48 months of cumulative enrollment and incomes above 100% of the federal poverty level who elect to enroll in Marketplace coverage.

- *Cost Sharing (1902(a)(14) as it incorporates §§1916 and 1916(A))*

To the extent necessary to enable the State to impose co-pays and contributions in the amounts described herein.

- *Comparability §1902(a)(17) or § 1902(a)(10)(B)*

To the extent necessary to vary the premiums and aggregate cost-sharing caps depending on whether or not an individual is in their first 48 months of coverage.

h. Public Notice Process

The Department plans to issue a letter on May 29, 2015 notifying the Tribal Chairs and Health Directors of the plan to submit the proposed waiver amendment. This letter will also notify the Tribal Chairs and Health Directors that the Department will be having a conference call on June 26, 2015 to discuss the waiver amendment application and answer any questions related to the waiver amendment application. The Department will provide a copy of the notice to the federal government after it is issued. Department staff will also present this topic at the quarterly Tribal Health Director's Meeting in July of 2015.

Additional public notice will be published in select newspapers throughout the state in June 2015. All comments and issues raised throughout this process will be summarized in the final waiver application.

III. 1332 Waiver Request

In the event it is determined that Section 1115 authority alone is not sufficient to carry out the requirements of State law, this Section describes an alternative or supplemental pathway (as applicable), consistent with the requirements set forth in 45 CFR §155.1300 *et seq.* and 31 CFR §33.

a. Legal Requirements to be Waived

The Department seeks a waiver of 26 USC §36B(c)(2)(B), which addresses eligibility for marketplace subsidies and the role of minimum essential coverage. Waiver of this provision is required to the extent necessary to permit individuals identified in MCL 400.105d(20) to elect Marketplace coverage rather than Healthy Michigan Plan coverage, and be eligible for advanced premium tax credits and cost sharing subsidies.

b. Regulatory Analysis and Supplemental Information

Given the narrow scope of the proposed waiver, the Department believes that there will be little to no impact on the affordability and comprehensiveness of the coverage available in the State, and that any transition of beneficiaries from the Healthy Michigan Plan to the Marketplace will result in an equivalent number of individuals covered without an increase to the federal deficit. The Department also expects little to no impact on the components of the Affordable Care Act that will not be waived to implement the requirements described herein. Moreover, given the limited number of individuals that could be affected by the discrete changes proposed above, minimal impact is expected both on individuals seeking services out of state (and those other states themselves) and on the administrative responsibilities of individuals, insurers and employers.

If deemed necessary, the Department will compile the necessary application materials, which may include actuarial analyses and certifications, data, assumptions and program targets, to support the position that the coverage provided under the proposed waiver will be at least as comprehensive, affordable, and comparable as provided by the Affordable Care Act. If so directed, the Department would also examine demographic and health insurance coverage information regarding the relevant populations, and conduct the necessary economic analysis to determine the impact of the waiver on health insurance coverage in the state. The state anticipates working collaboratively with our federal partners to ensure that all necessary analyses are completed in order to secure timely approval.

c. Implementation Timeline

Consistent with state law, the Department requests an implementation date of April 1, 2018. Individuals would be able to transition to the Marketplace from the Healthy Michigan Plan beginning in April of 2018, and on a rolling basis going forward as they meet the cumulative enrollment time periods defined in state law. The Department will work diligently with its federal partners and the Michigan Department of Insurance and Financial Services (DIFS) prior to the April 1, 2018 implementation date to ensure a smooth transition for beneficiaries.

The Department has significant experience in both the implementation and administration of waiver programs and the transition of populations across coverages and delivery systems, and will work with its federal, state, local and private partners to administer the proposed waiver in accordance with the approved terms and conditions.

Notably, the State requires approval of the proposed waiver by December 31, 2015. If approval is not secured by December 31, 2015 then state law prescribes the manner in which the Department must terminate the "Healthy Michigan Plan."

d. Financial Information

The Department expects that the provisions of the waiver proposed in this Section will not increase the federal deficit. The Department also remains committed to its role in assisting the federal government in its pursuit of those who contribute to waste, fraud and abuse in federally supported health care programs and will continue those efforts if the proposed waiver is approved. If so directed, the Department will develop a 10-year budget plan and gather information on the proposed waiver's administrative and other costs, consistent with regulatory requirements.

e. Notice and Comment Period

The Department plans to issue a letter on May 29, 2015 notifying the Tribal Chairs and Health Directors of the plan to submit the proposed waiver. This letter will also notify the Tribal Chairs and Health Directors that the Department will be having a conference call on June 26, 2015 to discuss the waiver application and answer any questions related to the waiver application. The Department will provide a copy of the notice to the federal government after it is issued. All comments and issues raised throughout this process

will be summarized in the waiver application. Department staff will also present this topic at the quarterly Tribal Health Director's Meeting in July of 2015.

Additional public notice will be published in select newspapers throughout the state in June 2015 and two public hearings will be held in June and July 2015. Interested parties may attend the hearings in person or via conference call. The Department is also in the process of developing a website dedicated to educating the public on the proposed waiver. A copy of the public notice will be posted on the website when it is issued. Waiver related comments received will also be posted on the website.

f. Attachments

1. State law MCL 400.105d(20) as highlighted on page 5 of the attachment