

Public Comment Summary

August 2018

The Michigan Department of Health and Human Services (MDHHS) began its 30-day public comment process by posting the Healthy Michigan Plan (HMP) Section 1115 Demonstration extension application amendment and supporting documents on the MDHHS web page and by publishing a notice in newspapers across the state. The public comment period began July 9, 2018 and ended August 12, 2018. During this time, over 1,000 comments were received from many organizations and individuals. MDHHS also received multiple comments during the public hearings. All comments were reviewed and considered by MDHHS in the development of the final waiver amendment. Below is a summary of the public comments received. Copies of all written comments are included in this attachment.

Many of the commenters expressed concern regarding the impact of implementation on beneficiaries, leading to a loss of coverage and increasing the administrative burden associated with these changes. While 84% of the comments expressed concern or opposition to one or more provisions of the waiver amendment, and another 15% expressed general support for Medicaid and/or HMP, approximately 1% of the comments received were in support of the waiver amendment. Over 25% of the comments were related to adding certain diagnoses to the list of medically exempt conditions. In general, the comments reflected the following themes:

1. General comments regarding the impact of the waiver amendment and the intent of Medicaid and the HMP program
 - a. The waiver amendment conflicts with objectives of Medicaid and the intent of HMP
 - b. Failure to meet Section 1115 demonstration requirements
2. Concerns with the 48-month cumulative enrollment provisions
 - a. 5% Premiums
3. Concerns and opposition for implementing workforce engagement requirements
 - a. Loss of coverage and access to healthcare
 - b. Administrative burden
 - c. Impact on uncompensated care
 - d. Providing support services
 - e. Associated costs
 - f. IT system changes
4. Suggestions to add certain diagnosis codes to the medically frail list
5. Support for workforce engagement requirements

1. General comments regarding the impact of the waiver amendment and the intent of Medicaid and the HMP program

a. The waiver amendment conflicts with objectives of Medicaid and the intent of HMP

Comments: Many commenters indicated the provisions of the waiver amendment conflict with the objectives of the Medicaid program and the goals of HMP. With many stating the primary goal of Medicaid and HMP is to increase access to quality healthcare, but MDHHS acknowledges there will be a potential loss of coverage due to the new requirements.

***MDHHS Response:** The primary goal of the waiver amendment is to maintain and increase access to quality healthcare. In order to sustain the HMP program, Michigan's Public Act (PA) 208 of 2018 requires MDHHS to submit a waiver amendment to add workforce engagement requirements and to require individuals who are over 100% of the Federal Poverty Level and have 48 months of cumulative eligibility to complete a healthy behavior and pay a 5% premium to maintain coverage. Pursuant to state statute, the HMP program will end if MDHHS is unable to obtain approval of the waiver amendment or if the annual state savings and other nonfederal net savings associated with the implementation of the HMP program are not sufficient to cover the program's state match requirements.*

Comments: Commenters asserted that work requirements were found to be illegal because they do not improve health. Furthermore, commenters stated that removing health support networks is counterproductive to promoting work and self-sufficiency; the waiver amendment proposal undermines healthcare and is contrary to the objectives of Medicaid.

***MDHHS Response:** The Centers for Medicare & Medicaid Services (CMS) has issued support for Medicaid work and community engagement requirements, and their guidance indicates that the workforce engagement requirements are not contrary to federal law. The MDHHS workforce engagement requirements, which are mandated by state law, are designed to promote better mental, physical, and emotional health and to help individuals and families rise out of poverty and attain independence. MDHHS believes this is in furtherance of federal Medicaid program objectives as stated by CMS.*

Comments: Many commenters expressed opposition to the workforce engagement requirements indicating the requirements will do nothing to help the people of Michigan connect to good-paying, quality jobs. Commenters stated that people who can work are already working and expressed their belief that Medicaid is not a jobs program, but rather a healthcare program.

***MDHHS Response:** The purpose of the waiver amendment is to strengthen the HMP program and ensure its sustainability. By providing access to healthcare and encouraging engagement in healthy behaviors, able-bodied Medicaid recipients will be better prepared for a life of self-sufficiency and independence from governmental interference.*

b. Failure to meet Section 1115 demonstration requirements

Comments: Several commenters suggested the waiver amendment is contrary to the purpose of Section 1115 demonstrations and fails to meet federal public notice requirements. They indicated that the waiver amendment document neglected to identify the number of individuals impacted and did not provide updated budget neutrality figures. Additionally, MDHHS received several comments indicating the HMP program evaluation would not adequately test the program hypotheses due to overlapping outcomes.

MDHHS Response: The Healthy Michigan Plan currently provides coverage to 655,000 individuals. MDHHS has determined that approximately 400,000 individuals may be impacted in some way by the waiver amendment changes, such as now having to obtain work or engage in other qualifying activities, report these activities monthly and timely, and maintain records to document these activities to provide should supporting documentation be requested by MDHHS as part of the compliance review process. Given the scope of this waiver amendment, MDHHS has added this information in response to these comments and will actively monitor enrollment over the course of the demonstration. MDHHS will also be working with CMS to establish an updated evaluation plan that is useful and accurately measures the hypotheses identified.

2. Concerns with the 48-month cumulative enrollment provisions

a. 5% Premiums

Comments: Several commenters stated that the 5% premiums incurred by beneficiaries will not contribute to the funding of the Medicaid program and alternatively, will cost the state money to implement. Concerns were also raised about how the changes could double the premium amount a beneficiary must pay.

MDHHS Response: The imposition of the 5% premium is a provision of PA 208 of 2018. The premiums are not intended to fund the state's Medicaid program, but rather are intended to promote personal responsibility and better align the cost of Healthy Michigan Plan coverage with that of non-Medicaid or commercial coverage. MDHHS acknowledges there may be a nominal increase in costs associated with implementing the 5% premium, however, MDHHS plans to leverage existing system processes that are used to collect payments from other MDHHS administered programs.

3. Concerns and opposition for implementing workforce engagement requirements

a. Loss of coverage and access to healthcare

Comments: Many commenters voiced concerns that the implementation of work requirements will result in a loss of beneficiary healthcare coverage, and that the waiver exemptions do not sufficiently address all individuals who might not meet work requirements for health and social reasons. Additionally, it was noted that there are some obstacles that people encounter which are often not obvious but may include mental or emotional challenges, lack of education or experience,

child care issues, family violence, homelessness, criminal records, or even a loss of hope that they could ever succeed.

MDHHS Response: *Through this waiver amendment, MDHHS has incorporated the many provisions of PA 208 of 2018 that provide beneficiaries relief from the workforce engagement requirements. The law includes an array of exemptions and provides up to three months of non-compliance in a 12-month period. Additionally, MDHHS has created a robust process to identify medically frail individuals who are exempt from the workforce engagement requirements. Individuals who feel they are unable to meet the workforce engagement requirements have the option of completing an MDHHS Medical Exemption Request form. The form requires the signature of a healthcare provider, attesting to the beneficiary's inability to meet the workforce engagement requirements.*

Comments: Several commenters expressed concern regarding whether beneficiaries who lose coverage from the HMP program due to non-compliance with the workforce engagement requirement will be afforded appeal rights and if their healthcare coverage will continue during the appeals process. There is also concern that the loss of coverage for non-payment of the premiums will create a burden on beneficiaries which would lead to disruptions in care.

MDHHS Response: *Beneficiaries will be afforded appeal rights, with the option for continuation of benefits, consistent with federal law and regulation. MDHHS will monitor the waiver amendment's impact on beneficiaries through the Section 1115 Demonstration Monitoring and Evaluation process.*

b. Administrative burden

Comments: A commenter suggested that MDHHS better define the verification process to be used and to make sure processes are fair and reliable. Other comments questioned whether new verification rules will slow down application approval. Comments included opinions that processes may be burdensome for beneficiaries and MDHHS staff.

MDHHS Response: *MDHHS is in the preliminary stages of assessing and planning system updates to accommodate the changes required by PA 208 of 2018. The state has requested approval for this extension amendment request effective January 1, 2019 with up to 6 months to implement the 48 months of cumulative coverage change in cost-sharing and healthy behaviors, and up to 12 months to implement the workforce engagement provisions. This timeline allows for a significant planning period, during which MDHHS will work diligently toward implementing a system with as few barriers as possible, providing comprehensive training for all applicable staff, and engaging in robust beneficiary and stakeholder outreach efforts to mitigate issues whenever possible.*

c. Impact on uncompensated care

Comments: Several commenters mentioned that work requirements will cause an increase in uncompensated care.

MDHHS Response: *Due to a multitude of factors, some known and some yet to be identified, that may have an impact on the number of potentially affected individuals, MDHHS is not able to predict potential changes in levels of uncompensated care at this time. MDHHS will implement every strategy possible to enable beneficiaries to meet these new requirements to mitigate the loss of coverage and prevent an increase in uncompensated care.*

d. Providing support services

Comment: Several commenters identified additional qualifying activities that could be added to the waiver amendment to satisfy a beneficiary's work requirements. PA 208 of 2018 offers the option of participating in unpaid work activities such as, but not limited to, internships. It was also suggested that MDHHS include voluntary participation in case management services designed to overcome barriers to self-sufficiency in helping individuals to reach their maximum potential. It was also suggested that extending case management services to those unable to meet their work requirements could prove to be highly cost effective.

MDHHS Response: *MDHHS acknowledges that state law does allow some flexibility regarding the definition for qualifying activities related to unpaid workforce engagement directly related to employment and for education directly related to employment. MDHHS appreciates the comments and will continue to work with stakeholders in further defining such activities that meet the intent of the law.*

e. Associated costs

Comments: Several commenters expressed concern regarding amount of money that would be spent each year to administer the requirements. PA 208 of 2018 does not direct any new money to workforce development programs or employment projects in underserved parts of the state.

MDHHS Response: *MDHHS is currently conducting a needs assessment to determine what additional resources will be required to implement and maintain the program. Michigan intends to provide supportive measures to assist individuals with meeting and sustaining the work requirements as identified in the law. As part of the needs assessment, MDHHS will be exploring the feasibility of leveraging existing services and supports to assist HMP beneficiaries in meeting the workforce engagement requirements. In addition, MDHHS plans to submit a grant proposal to The Michigan Health Endowment Fund to seek funding for additional supportive resources prior to implementation of the workforce engagement requirements in January 2020.*

Comments: One commenter noted that funding would be diverted from beneficiary care to cover these new, unnecessary administrative costs.

MDHHS Response: *No funds will be diverted from beneficiary care to cover the cost of administering these new requirements.*

f. IT system changes

Comments: Comments indicated concerns regarding implementation costs, including additional staff and training requirements. Commenters posed questions to MDHHS regarding what system changes will be required, how long system implementation will take, costs to state and federal

governments, and whether new bids for contracted services will be needed. Questions were also asked related to modifying the healthcare exchange.

MDHHS Response: *MDHHS anticipates making modifications to several IT systems, including the eligibility and Medicaid Management Information Systems, and is in the process of completing a needs assessment of the required changes. Costs related to such changes are eligible for federal matching dollars.*

4. Suggestions to add certain diagnosis codes to the medically frail list

Comments: Many commenters suggested that people with cystic fibrosis, HIV, certain behavioral health diagnoses, chronic conditions, and those individuals waiting to receive substance use disorder services should be defined as medically frail and exempt from the work requirements.

MDHHS Response: *In response to public comments, MDHHS has reviewed diagnosis codes and has amended the list to include cystic fibrosis, HIV, and several other diagnoses to the list of health conditions that will be considered as meeting the medically frail definition. MDHHS agrees that beneficiaries with complex chronic conditions may have difficulty meeting the workforce engagement requirement. As part of the Medically Frail Identification Process, MDHHS has provided multiple methods of identifying individuals who meet medically frail exemption criteria, including a beneficiary's self-identification or via an exemption form.*

5. Support for workforce engagement requirements

Comments: Several commenters provided their support for the workforce engagement requirements of the waiver amendment as a condition of HMP coverage.

MDHHS Response: *MDHHS appreciates the comments.*

Conclusion

In summary, MDHHS appreciates the large volume of comments received as part of the public comment period for the waiver extension amendment. As a result, MDHHS will continue to explore and work to identify resources that can help support beneficiaries in meeting the workforce engagement qualifying activities. MDHHS recognizes the significance of ongoing stakeholder input and the importance of a robust communication strategy for the providers, staff, and beneficiaries. MDHHS endeavors to implement and ensure that appropriate beneficiary supports and protections will be made available. Additionally, MDHHS intends to actively assess and measure through the demonstration evaluation process the influence of the waiver amendment on the impacted population.

In response to the information solicited during the public comment process, MDHHS made the following updates to its waiver extension amendment:

- Updated language related to the objectives of the Medicaid program.

- Provided additional information to address identified needs to provide supports and services to assist individuals with meeting cost-sharing, healthy behaviors, and workforce engagement requirements.
- Clarified that this program only applies to individuals on HMP and is not applicable to other Medicaid programs.
- Provided information related to the number of beneficiaries who may be impacted by the waiver amendment.
- Clarified how MDHHS intends to modify the evaluation activities.
- Updated the public comment activities.
- Performed a review of the Medically Frail Identification Process and added many diagnosis codes to the list of medically exempt conditions in response to the public comments received.

MDHHS will continue to accept and review comments from the public throughout the demonstration extension application amendment submission and implementation process. Continued stakeholder input will be key in working through various HMP program details and to help ensure a smooth implementation process. All waiver related information was provided at the public hearings and remains available on the MDHHS webpage.