

**Arizona Health Care Cost Containment System
Medicaid Section 1115 Demonstration Amendment Request
Safety Net Care Pool and Coverage Expansions**

I. Summary

The Arizona Health Care Cost Containment System (AHCCCS) is requesting an amendment to the Section 1115 Research and Demonstration Waiver (the Demonstration) with respect to the Safety Net Care Pool approved in 2012 and an expansion of coverage prior to 2014.

In a waiver amendment approved in April 2012, CMS permitted Arizona to establish a new funding mechanism under the authority of its Section 1115 waiver—the Safety Net Care Pool (SNCP)—to help offset rising uncompensated care costs borne by certain safety net providers and to re-open enrollment into the KidsCare program. The program has been successfully operating for nine months. Building on this success, we now propose to expand the pool to additional Phoenix-area hospitals with high uncompensated care burdens and to further expand coverage by opening KidsCare enrollment to additional children, supporting their transition to Medicaid coverage in 2014, and opening AHCCCS coverage for certain uninsured adult populations. The proposal will be funded by the City of Phoenix through intergovernmental transfers (IGTs) financed by a locally-imposed provider assessment on certain Phoenix hospitals.

II. Amendments to the Safety Net Care Pool

Background on the SNCP

As approved in April 2012, the SNCP authorizes payments to designated providers to assist with the uncompensated costs of medical services that meet the definition of “medical assistance” provided to Medicaid eligible or uninsured individuals. Expenditures must be claimed in accordance with a CMS-approved claiming protocol, which is contained in Attachment I to the Demonstration Special Terms and Conditions (STCs). The annual SNCP payment distributed to each individual provider cannot exceed its uncompensated care costs for providing medical services to Medicaid eligible and uninsured individuals for the period, taking into account its total Medicaid payments, Disproportionate Share Hospital (DSH) payments, SNCP payments, and any other payments for medical services furnished to Medicaid eligible and uninsured individuals, and offsetting costs attributable to non-emergency services provided to non-qualified aliens. The aggregate amount of SNCP payments to the providers currently identified in the waiver cannot exceed \$332 million per demonstration year.

Paragraph 25 of the STCs specifies categories of providers potentially eligible for the SNCP, including Safety Net Hospital Systems, Rural Hospitals, Critical Access Hospitals and Disproportionate Share Hospitals. Specific eligible providers are listed in Attachment J. Currently, only certain hospitals in the Safety Net Hospital Systems category and their affiliated providers are

eligible. The State is required to seek prior approval from CMS to amend the list of eligible providers. The program terminates December 31, 2013.

Request for Amendment to Expand the SNCP to Additional Eligible Providers

The State proposes to expand the SNCP to hospitals in the City of Phoenix experiencing increased uncompensated care costs, and their affiliated physician professionals. In doing so, the State proposes to add to the SNCP an additional amount for payments not to exceed \$385 million per demonstration year that would be directed to the new category of eligible Phoenix acute care hospitals.¹ SNCP payments to the Phoenix hospitals would be subject to all existing SNCP requirements, including the existing claiming protocol (subject to minor modifications summarized at the end of this section) and the requirement that the annual SNCP payment distributed to each provider not exceed its uncompensated care costs for providing medical services to Medicaid-eligible and uninsured individuals for the period.

The following eligible Phoenix providers would be added to the list in Attachment J of the waiver:

- Banner Estrella Medical Center
- Banner Good Sam Medical Center
- John C Lincoln-Deer Valley Hospital
- John C. Lincoln North Mountain Hospital
- Maryvale Hospital Med Center
- Paradise Valley Hospital
- Phoenix Baptist Hospital
- Phoenix Children's Hospital
- St Joseph's Hospital-Phoenix
- St Luke's Medical Center

Note that Phoenix Children's Hospital (PCH) is also among the category of "Safety Net Hospital Systems" that are currently eligible for SNCP payments, funded through IGTs from governmental providers or governmental funding partners. Under this proposal, PCH would primarily participate in the City of Phoenix portion of the pool, funded through the City of Phoenix provider assessment revenues, although it would also retain its eligibility as a Safety Net Hospital System. To the extent any of PCH's costs remain uncompensated after it is paid through the City of Phoenix portion of the pool, PCH would be eligible to receive additional funds through the Safety Net Hospital portion financed with IGTs from a governmental funding partner.² Payments under the City of Phoenix portion of the pool will be made prior to any claim under the existing Safety Net Health Systems

¹ The aggregate uncompensated costs for eligible Phoenix hospitals is \$385 million, which is the basis for the proposed cap. Based on projected assessment revenues, and accounting for the estimated commitment of funds to coverage expansion and to support MIHS, payments under the City of Phoenix portion of the pool will likely amount to roughly \$295 million, or 76.54% of eligible uncompensated care costs.

² As described in note 1, current projections estimate 23.46% of eligible costs for hospitals in the City of Phoenix portion of the pool will remain uncompensated.

pool. As specified in the proposed revisions to the STCs, under no circumstances would PCH be paid more than its uncompensated cost limit (to be confirmed upon reconciliation).

The proposed modifications to the SNCP claiming protocol do not include substantive changes to either the interim or final cost reconciliation. The revisions are intended to reflect the expanded eligibility to the Phoenix hospitals listed above, to update the cost report references for use of the CMS 2552-10 reports where appropriate, and to reflect the initial cost calculation methodology used for the Phoenix area hospitals, which follows the existing initial cost calculation closely. The main difference in the methodology is in the base period used for the initial cost calculation. The existing methodology uses the most recently available Medicare cost report for each eligible hospital, while the Phoenix hospital methodology uses any Medicare cost reports that overlap the base state fiscal year (state fiscal year 2010), prorated based on the overlapping dates. This adjustment to measure all costs over a common base period was made in order to maintain consistency with the cost calculations described under the federal DSH audit reconciliation.

The State does not propose to change the termination date for the SNCP of January 1, 2014.

III. KidsCare and AHCCCS Expansion

In January, 2010, enrollment into KidsCare was frozen due to a lack of funding. Through the SNCP waiver amendment, however, the State was able to establish KidsCare II, a program identical to KidsCare in most respects, except that the eligibility requirements vary and the coverage is temporary, ending January 1, 2014.

Through this requested waiver amendment to expand the SNCP to Phoenix hospitals, the State also proposes to expand the KidsCare II program to an estimated additional 19,250 children, using IGTs from the City of Phoenix. The IGTs from the City would be funded by a portion of the proceeds of the City of Phoenix Access to Care assessment, described in detail in Section IV below. The additional children enrolled through this proposal would be subject to the same eligibility requirements as KidsCare II, except that the federal poverty level requirement would increase to 200% (requiring additional expenditure authority for populations between 175% and 200% federal poverty level). As is true of the entire KidsCare II program, coverage would be temporary to 2014, but the State will be responsible for coordinating the seamless transition of enrolled children to other forms of coverage to the maximum extent possible. To ease this transition, IGTs from the City of Phoenix would also fund Medicaid coverage for a portion of KidsCare II enrollees for the first six months of 2014.

In addition to opening KidsCare II enrollment, the State also seeks to open AHCCCS enrollment for certain adults under 100% federal poverty level without dependent children. Specifically, the State would target 1931 parents who, because of a lack of a deprived child, would otherwise lose coverage due to the childless adult enrollment freeze. This would include allowing 1931 parents to transition to childless adult coverage whose children age out of Medicaid or enter the foster care system. The requested waiver amendment would open AHCCCS enrollment to an estimated additional 13,000

adults, again using IGTs from the City of Phoenix finance by a portion of the proceeds of the City of Phoenix Access to Care assessment.

IV. Phoenix Provider Assessment

Under the existing Demonstration, SNCP payments may be funded with any permissible source of non-federal share funding as defined in federal regulation. Payments for the Section D Phoenix acute care hospitals will be funded using revenues from a hospital assessment levied by the City of Phoenix and transferred to AHCCCS. Consistent with use of IGTs as the source of non-federal share of other payments under the SNCP, AHCCCS and the City of Phoenix will have an IGT agreement in place specifying the terms of the transfer and payment. To support the City in funding the non-federal share of SNCP payments to these Phoenix hospitals as uncompensated care increases, the City is establishing a provider assessment which has been structured to meet federal Medicaid requirements.

At no time should any authority within the SNCP terms of the waiver be interpreted as an obligation on the state legislature or AHCCCS to fund payments using state general revenue.

City of Phoenix Access to Care Assessment

On December 11, 2012, the City of Phoenix adopted an assessment on designated Phoenix acute care hospitals which would be implemented upon CMS approval of this amendment.

The assessment would be levied at a uniform rate of six percent of the hospitals' net inpatient hospital revenues. The proceeds of the assessment (save for a small amount to cover the City's administrative costs) would be transferred to AHCCCS and designated for three purposes:

- The KidsCare II and AHCCCS coverage expansion (approximately 18 percent of assessment funds would be used for coverage);
- SNCP payments to the eligible Phoenix hospitals; and,
- A portion of the cost of SNCP payments for Maricopa Integrated Health System (MIHS), a governmental hospital within the City of Phoenix whose SNCP payments are otherwise funded by MIHS' own governmental funds.

Certain hospitals would be exempt from the assessment:

- Governmental hospitals (specifically MIHS and the Arizona State Hospital);
- Specialty hospitals (psychiatric hospitals, inpatient rehabilitation facilities, long term care hospitals, and orthopedic and surgical specialty hospitals);
- Children's hospitals with less than 30 beds; and,
- Hospitals in which on average at least 50 percent of the inpatient days are for Medicare beneficiaries, and 15 percent of the inpatients are from out-of-state..

Due to their special nature and unique patient populations, the City has determined that imposing the assessment on these facilities would unduly burden access to the specialized care they provide to those populations. Moreover, even with these facilities excluded, the assessment is nonetheless redistributive as

defined under federal law. AHCCCS is therefore requesting a waiver of the broad based requirement at section 1903(w)(3) of the Social Security Act, codified at 42 C.F.R. 433.68(c)(3).

Pursuant to 42 C.F.R. 433.68(e)(1)(ii), CMS will automatically approve such a waiver request if the State demonstrates that the assessment meets the “P1/P2” test, where P1 is the proportion of the assessment revenue applicable to Medicaid if the assessment were broad based and P2 is the proportion of the assessment revenue applicable to Medicaid under the proposed assessment program. If the value of P1/P2 is at least 1, the waiver request will be approved. The value of the P1/P2 for the Phoenix assessment is 1.0001.

The assessment meets all other federal law requirements applicable to permissible health care-related taxes. It will be uniformly proposed on all net inpatient hospital revenues. It meets the hold harmless test because there is no hold harmless arrangement in place and the assessment does not produce revenues in excess of 6 percent of the net inpatient hospital revenues received by the hospitals as required by 42 C.F.R. 433.68(f)(i)(A).

Therefore, the proposed Phoenix assessment is a permissible health care-related tax under federal law and a permissible source for the City’s IGT to fund the expanded SNCP payments and expanded coverage.