

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

September 20, 2013

Cynthia Mann
Director
Center for Medicaid and CHIP Services
Center for Medicare and Medicaid Services
7500 Security Blvd
Mail Stop S3-14-28
Baltimore, Maryland 21244-1850

Dear Ms. Mann:

This letter is to consolidate for the Centers for Medicare and Medicaid Services (CMS) several New York State amendment requests to New York's Medicaid section 1115 Demonstrations, "Partnership Plan" (11-W-00114/2) and "Federal-State Health Reform Partnership (F-SHRP)" 11-W11234/2.

Affordable Care Act Initiatives

A previous request was submitted on July 19, 2013 to amend the Partnership Plan to facilitate implementation of the following initiatives as a result of the Affordable Care Act (ACA):

- Phase-out of New York's Family Health Plus Program;
- Express Lane Eligibility to include enrollment for adults;
- Waiver authority modification to provide coverage to single and childless adults through the Medicaid State Plan; and
- Twelve Month Continuous Coverage for enrollees using Modified Adjusted Gross Income

Tribal notices were issued July 16, 2013 and a public notice for stakeholder input was published on September 11, 2013.

Advance Premium Tax Credit

The Department is also seeking the authority to extend Medicaid coverage for recipients in the Exchange who lose Medicaid eligibility after the 15th of the month, until they become eligible for the Advance Premium Tax Credit (APTC). If eligibility for enrollment in APTC is determined after the 15th of the month, there would be a gap in coverage, as Medicaid would close and the recipient would not be able to enroll in APTC until the following month. Therefore, a Medicaid extension is necessary to ensure that there is a seamless transition from

Medicaid to APTC. The requested effective date for this amendment is January 1, 2014. Tribal notice and public notice will be issued October 2, 2013.

Clinic Uncompensated Care Funding

New York State is also requesting an amendment to the Partnership Plan to extend the Clinic Uncompensated Care Funding authorized in STC 58, that is currently due to expire as of December 31, 2013. The proposed amendment would extend the federal funding agreement through December 31, 2014. Tribal notice was issued on September 17, 2013 and public notice will be published on October 2, 2013. The State is seeking advice from CMS on how best to proceed with this request.

The uncompensated program provides over \$108 million in payments to qualifying clinic providers, including mental health clinics, to assist in covering the uncompensated costs of services provided to the uninsured population. In order to receive these funds, each provider must deliver a comprehensive range of health care or mental health services; have at least 5% of their annual visits providing services to uninsured individuals; and have a process in place to collect payments from third party payers. For 2011, 112 diagnostic and treatment centers (DTCs) and 190 mental health (MH) clinics were determined to be potentially eligible to receive funding for this program and provided over \$214 million in uncompensated care services to the uninsured. Of these, 76 DTCs and 124 MH clinics met the qualifying criteria described above and received \$98.6 million and \$10.2 million respectively from the indigent care funding which covered approximately 50% on average of their uncompensated care costs. The numbers are similar for 2012: 112 DTCs and 195 MH clinics were potentially eligible and provided over \$207 million in uncompensated care; 76 DTCs and 98 MH clinics met the qualifying criteria and received \$99.1 million and \$9.7 million respectively which, on average, covered approximately 50% of their uncompensated care costs. It is important to note that for each year after the receipt of the indigent care funding, approximately \$100 million in uncompensated care costs remained that impacted the provider's financial condition.

In a recent report issued by the Urban Institute (*Uninsured New Yorkers after Full Implementation of the Affordable Care Act: Source of Health Insurance Coverage by Individual Characteristics and Sub-State Geographic Area*; issued January 2013), it is estimated that there will be over 1.6 million New Yorkers who will still be uninsured after full implementation of the federal ACA. These estimates do not include any adjustment for the small share of individuals expected to go from insured to uninsured post-reform. Many of these uninsured people will continue to receive medical services including behavioral health services from the clinics currently receiving these indigent care payments. Elimination of this funding source will severely limit access to these services for the uninsured currently served in these clinics.

In evaluating this request, consideration should be given to the facts that New York will still have a significant uninsured population after the ACA is fully implemented; federal DSH allocations are not being totally eliminated after the full implementation of the ACA; and the DSH allocation reductions are being transitioned over a period of years. A potential option for consideration would be for the clinic indigent care funding to be reduced in the same proportion that the State's federal DSH allocation is reduced.

Family Planning Expansion Program

New York has a State Plan Amendment (SPA) pending for the Family Planning Expansion Program currently authorized under the Partnership Plan. Since the benefit will continue and the transition will be seamless for the beneficiary, the State would like to confirm the steps necessary to remove this benefit from the Partnership Plan once the SPA is approved.

F-SHRP Phase-Out

New York is in the process of drafting a Phase-Out Plan for the F-SHRP Demonstration which expires March 31, 2014. Part of that plan is to transition 14 counties with populations enrolled in Mandatory Mainstream Managed Care (MMMC) and to seek the authority to expand MMMC to elderly and disabled populations to the Partnership Plan. The Department is seeking guidance as to whether this will require an amendment, or whether this can be accomplished in some other procedural process.

We will contact your staff to seek guidance on the open issues listed above. If CMS has additional questions about the items discussed in this letter, please contact Kalin Scott of my staff at 518-473-4018. Thank you for your consideration of these requests.

Sincerely,



Jason A. Helgerson
Medicaid Director
Office of Health Insurance Programs

cc: Jessica Woodard, Center for Medicaid and CHIP Services
Michael Melendez, CMS Region 2 Office
John Guhl, CMS Region 2 Office
Kalin Scott, New York State Department of Health

