

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-01-16
Baltimore, Maryland 21244-1850



Children and Adults Health Programs Group

Ms. Nancy V. Atkins
State of West Virginia
Department of Health and Human Resources
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3706

Dear Ms. Atkins:

Thank you for your recent section 1115 demonstration application entitled, West Virginia Early Adoption of Modified Adjusted Gross Income Methodology Demonstration. The Centers for Medicare & Medicaid Services (CMS) received your application on August 13, 2013. We have completed a preliminary review of the application, and have determined that the state's application has met the requirements for a complete application as specified under section 42 CFR 431.412(a).

In accordance with section 42 CFR 431.416(a), CMS acknowledges receipt of the state's application. The documents will be posted on the Medicaid.gov website for a 30-day federal comment period, as required under 42 CFR 431.416(b). The state's application is available at <http://medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/Waivers.html>

We look forward to working with you and your staff on the proposed demonstration project. If you have additional questions or concerns, please contact your assigned project officer Ms. Jennifer Sheer, Division of State Demonstrations and Waivers, at (410) 786-1769, or at Jennifer.Sheer@cms.hhs.gov.

Sincerely,

//s//

Diane T. Gerrits
Director
Division of State Demonstrations and Waivers

cc: Jennifer Ryan, Deputy Director for Policy, CMCS
Francis McCullough, ARA, CMS Philadelphia Regional Office
Margaret Kosherzenko, Philadelphia Regional Office



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

BUREAU FOR MEDICAL SERVICES
350 Capitol Street, Room 251
Charleston, West Virginia 25301-7307
Telephone: (304) 558-1700 Fax: (304) 558-1451

Earl Ray Tomblin
Governor

Karen Bowling
Cabinet Secretary

August 13, 2013

Ms. Jennifer Ryan
Acting Director, Children and Adults Health Programs Group
Center for Medicaid and CHIP Services, CMS
By electronic mail: jennifer.ryan@cms.hhs.gov

Dear Jennifer:

In response to CMS' guidance regarding streamlined strategies for enrolling individuals in Medicaid, West Virginia is requesting a section 1115 waiver to implement early use of MAGI rules.

We have been working to ensure proper implementation of the often complex rules surrounding determination of income thresholds for the various eligibility groups. We know that CMS recognizes this complexity, and is available to assist states with determining income thresholds that meet federal requirements, while taking into account state policy goals and minimizing administrative burden. We also know that CMS has suggested that states, particularly those with early MAGI waivers, talk with CMS individually about this issue. West Virginia has requested such a meeting and looks forward to our discussion. However, we are mindful of the very tight timeframe the state is facing in order to implement the provisions of this waiver October 1, 2013, given the requirements governing the approval process. To ensure we meet our deadline, we are formally submitting our waiver request at this time, confident that we can continue to work with CMS to correct any deficiencies.

Generally we made an effort to use the same standard that would be applied January 1, 2014, to avoid confusion among workers and the public and to simplify system development. West Virginia has used converted current MAGI percentage of FPL or dollar figures. These are also the figures that West Virginia proposes to use January 1, with the exception of the threshold for children 6-18, which will increase to 133% of FPL at that time.

This submission differs from the draft waiver previously provided to CMS in that converted MAGI standards for adults have been updated to reflect new data provided by CMS. Additionally, in order to ensure that in no instance does an individual need to be assessed by two sets of eligibility rules, we are requesting permission to use MAGI standards to determine retroactive eligibility. We understand that to assure individuals who experience changes in circumstances during the waiver period are protected from losing eligibility unduly; we may need to submit a separate state plan amendment implementing temporary income disregards and seek CMS guidance on this issue. There is also additional information documenting the state's public notice and input process.

Ms. Jennifer Ryan
Page 2
August 13, 2013

We appreciate your expeditious review of this request. As always, my staff and I are ready to provide you with any additional information and clarification as requested. I look forward to your response.

Sincerely,



Nancy V. Atkins, RN, MSN, NP-BC
Commissioner

NVAJsky



Centers for Medicare & Medicaid Services
Office of Information Services
Information Services Design & Development Group
7500 Security Blvd
Baltimore, MD 21244-1850

Section 1115 Demonstration Program

West Virginia

Early Adoption of Modified Adjusted Gross Income Methodology

Section 1115 Demonstration Template for New Demonstrations

Instructions: This template is meant to assist states that are developing an application for a new section 1115 demonstration project; submission of the information provided in this template or the attachments does not guarantee approval of a state's demonstration request. CMS will work with states to identify any additional information necessary to consider demonstration requests. Use of this guide/format is not required; it is a tool that states can use at their option. It was designed to help states ensure the application contains the required elements as provided for under 42 CFR 431.412, as well as promote an efficient review process. It can also be used by states as a template for their application; states can add narrative responses to the information requested in the sections below that are applicable to the state's particular application, and complete the charts and check boxes provided. We will continue to improve this guide based on input from states and expect to have an online section 1115 demonstration application available for use in the future.

Please submit applications electronically to 1115DemoRequests@cms.hhs.gov and mail hard copies to:

Ms. Diane Gerrits
Centers for Medicare & Medicaid Services
Children and Adults Health Programs Group
Mail Stop: S2-01-16
7500 Security Boulevard
Baltimore, MD 21244

Section I - Program Description

This section should contain information describing the goals and objectives of the demonstration, as well as the hypotheses that the demonstration will test. In accordance with 42 CFR 431.412(a)(i), (v) and (vii), the information identified in this section must be included in a state's application in order to be determined complete.

Effective January 1, 2014, eligibility for health coverage under all health insurance affordability programs – including Medicaid, the Children's Health Insurance Program (CHIP) and the Advanced Premium Tax Credit – generally will be based on a new Modified Adjusted Gross Income, or MAGI, methodology. Calculating applicants' MAGI-based income will entail defining household composition and executing income-counting procedures according to rules that differ from those currently in effect for Medicaid. During the 2013 open enrollment period (October 1, 2013 to December 31, 2013), eligibility for certain applicants will be determined using MAGI-based methodologies for coverage scheduled to start on January 1, 2014. In addition, during this period, people applying for or renewing Medicaid or CHIP for coverage in 2013 will also need to have their eligibility assessed based on existing rules. As a result, for populations subject to the MAGI-based rules, West Virginia will have to determine Medicaid and CHIP eligibility under both the current rules and the MAGI-based rules during this limited period of time.

The purpose of this demonstration is to enable West Virginia to avoid having to operate two sets of eligibility rules for children (Medicaid and CHIP), parents and caretaker relatives, pregnant women and other non-disabled, non-elderly adults that may be eligible for Medicaid enrollment

during this period. As such, the state is requesting necessary waivers to implement, on a state-wide basis, MAGI-based eligibility determination methods to populations subject to MAGI beginning October 1, 2013 through December 31, 2013, to coincide with the start of the open enrollment period, including determination of retroactive eligibility. The state proposes to test and evaluate how the early adoption of the MAGI-based methodology and a more coordinated open enrollment process will help ensure the state's capacity to process applications in a timely fashion.

Section II – Demonstration Eligibility

This section should include information on the populations that will participate in the demonstration, including income level. In accordance with 42 CFR 431.412(a)(ii), the information identified in this section must be included in a state's application in order to be determined complete.

The populations affected by this demonstration are the state plan populations that are subject to MAGI-based eligibility determinations effective January 1, 2014. The state projects that 200,000 individuals will be affected by the demonstration. The state proposes to apply the MAGI-based eligibility determination rules as described in 42 CFR 435.603 effective October 1, 2013 to the populations listed in the table below:

Eligibility Chart¹

Eligibility Group Name	Social Security Act and CFR Citations	Income Level
Medicaid Children	SSA Sections: 1902(a)(10)(A)(i)(VI), 1931, 1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(VI), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(VII), 1902(a)(10)(A)(ii)(IV), and 1902(a)(10)(A)(ii)(IX) 42 CFR 435.118	Under 1: 158% of FPL 1-5: 141% of FPL 6-18: 108% of FPL
Parents and Caretaker Relatives	SSA Section 1931 42 CFR 435.110	Monthly income ² HH size 1: 186.52 HH size 2: 251.48 HH size 3: 316.43 HH size 4: 388.39 HH size 5: 449.35 HH size 6: 515.30 HH size 7: 577.26 HH size >=8:605.22
Pregnant Women	SSA Sections: 1931, 1902(a)(10)(A)(i)(III); 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(ii)(I),	158% of FPL

¹ The "new adult" group is not included in this chart because West Virginia will not enroll this population in Medicaid until January 1, 2014, but MAGI methodology will be used to evaluate their eligibility throughout the open enrollment period.

² These are current guidelines; conversions are being redone.

	1902(a)(10)(A)(ii)(IV), 1902(a)(10)(A)(ii)(IX) 42 CFR 435.116	
CHIP Children	SSA Section: 2102(b) 42 CFR 457.310 & 320	300% of FPL

Section III – Demonstration Benefits and Cost Sharing Requirements

This section should include information on the benefits provided under the demonstration as well as any cost sharing requirements. In accordance with 42 CFR 431.412(a)(ii), the information identified in this section must be included in a state's application in order to be determined complete.

- 1) Indicate whether the benefits provided under the demonstration differ from those provided under the Medicaid and/or CHIP state plan:

 Yes No

- 2) Indicate whether the cost sharing requirements under the demonstration differ from those provided under the Medicaid and/or CHIP state plan:

 Yes No

Section IV – Delivery System and Payment Rates for Services

This section should include information on the means by which benefits will be provided to demonstration participants. In accordance with 42 CFR 431.412(a)(ii), a description of the proposed healthcare delivery system must be included in a state's application in order to be determined complete.

- 1) Indicate whether the delivery system and payment rates for services used to provide benefits to demonstration participants will differ from the Medicaid and/or CHIP state plan:

 Yes
 No

Section V – Implementation of Demonstration

This section should include the anticipated implementation date, as well as the approach that the state will use to implement the demonstration.

October 1, 2013 – December 31, 2013

Section VI – Demonstration Financing and Budget Neutrality

This section should include a narrative of how the demonstration will be financed as well as the expenditure data that accompanies this application. The state must include 5 years of historical data, as well as projections on member month enrollment. In accordance with 42 CFR 431.412(a)(iii) and (iv), historical and projected expenditures as well as projected enrollment for the proposed demonstration project must be included in a state's application in order to be determined complete.

The state is not requesting section 1115 expenditure authority as the affected population is comprised of Medicaid and CHIP state plan eligibility groups; therefore, no budget neutrality agreement is needed in conjunction with this demonstration.

Section VII – List of Proposed Waivers and Expenditure Authorities

This section should include a preliminary list of waivers and expenditures authorities related to title XIX and XXI authority that the State believes it will need to operate its demonstration. In accordance with 42 CFR 431.412(a)(vi), this section must be included in a state's application in order to be determined complete.

The state requests a waiver of section 1902(a)(17) in order to implement MAGI-based eligibility determination methods, from October 1, 2013 through December 31, 2013, for all populations who will be subject to MAGI-based rules effective January 1, 2014.

Section VIII – Public Notice

This section should include information on how the state solicited public comment during the development of the application in accordance with the requirements under 42 CFR 431.408. For specific information regarding the provision of state public notice and comment process, please click on the following link to view the section 1115 Transparency final rule and corresponding State Health Official Letter: <http://medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/Section-1115-Demonstrations.html>

Please include the following elements as provided for in 42 CFR 431.408 when developing this section:

- 1) Start and end dates of the state's public comment period;
 - The public comment period ran from July 10, 2013 through August 10, 2013.
- 2) Certification that the state provided public notice of the application, along with a link to the state's web site and a notice in the state's Administrative Record or newspaper of widest circulation 30 days prior to submitting the application to CMS;
 - The Public Notice is available on the BMS website here: http://www.dhhr.wv.gov/bms/Public_Notices/Pages/default.aspx
 - Public Notice appeared in the Charleston Gazette and the Daily Mail on July 10, 2013. [Ad number 536115]
- 3) Certification that the state convened at least 2 public hearings, of which one hearing included teleconferencing and/or web capability, 20 days prior to submitting the application to CMS, including dates and a brief description of the hearings conducted;

- Medical Services Fund Advisory Council (MSFAC)
July 12, 2013 from 1:30 – 3:00
Kanawha Valley Senior Services
2428 Kanawha Blvd East
Charleston, WV 25311

This group consists of representatives of provider associations, consumer representatives and other interested parties. Twenty-six individuals attended in addition to single state agency employees.

A description of the content of and rationale for the waiver was provided and comments solicited during a regular meeting of the Advisory Council. These meetings are open to the public.

- Schoenbaum Family Enrichment Center
July 15, 2013 from 4:00 – 5:00
1701 5th Avenue Suite 1
Charleston, WV 25387-1900
To Attend by Toll Free Teleconference: 1-866-252-0050 PIN: 175149#

This meeting/teleconference was set up specifically to give the public an opportunity to learn about and comment upon the waiver. No one other than state employees attended or joined the teleconference.

- 4) Certification that the state used an electronic mailing list or similar mechanism to notify the public. (If not an electronic mailing list, please describe the mechanism that was used);
 - The state uses an RSS feed on its Public Notice website. When a new public notice is posted, subscribers to the feed are notified of the posting and provided with a link to the BMS website to review the notice.

- 5) Comments received by the state during the 30-day public notice period;

Two related comments were received at the Advisory Council meeting.

An interested party indicated general support for the waiver, but was concerned about how it would be implemented in time for the “mass changes” that go into effect January 1, 2014. Her main concern related to what happens to people who renew Medicaid eligibility between October and January.

Another interested party asked if it could be written in the waiver that these groups would be protected.

The Advisory Council unanimously adopted a motion in support of the Section 1115 Waiver Application.

- 6) Summary of the state's responses to submitted comments, and whether or how the state incorporated them into the final application; and
- The State provided preliminary feedback at the meeting expressing its support for protecting beneficiaries and committing to research the issue.

West Virginia believes it has addressed this issue through its request for a waiver using section 1902(e)(14)(A) authority to extend eligibility renewals starting in October 2013. As part of the design of that request there was specific consideration for insuring protections for this population.

- 7) Certification that the state conducted tribal consultation in accordance with the consultation process outlined in the state's approved Medicaid state plan, or at least 60 days prior to submitting this demonstration application if the demonstration has or would have a direct effect on Indians, tribes, on Indian health programs, or on urban Indian health organizations, including dates and method of consultation.
- Not Applicable.

If this application is an emergency application in which a public health emergency or a natural disaster has been declared, the State may be exempt from public comment and tribal consultation requirements as outlined in 42 CFR 431.416(g). If this situation is applicable, please explain the basis for the proposed emergency classification and public comment/tribal consultation exemption.

Section IX – Demonstration Administration

Please provide the contact information for the state's point of contact for the demonstration application.

Name and Title: Nancy V. Atkins, RN, MSN, NP-BC
Commissioner
Telephone Number: 304-356-4849
Email Address: Nancy.V.Atkins@wv.gov