

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-26-12  
Baltimore, Maryland 21244-1850



Michael A. Ceballos  
Director  
Wyoming Department of Health  
401 Hathaway Building  
Cheyenne, WY 82002

JAN 03 2020

Dear Mr. Ceballos:

This letter pertains to your section 1115 demonstration request entitled, “Wyoming Medicaid Coordinated Air Ambulance Network,” submitted on October 28, 2019. Thank you for your submission. The Centers for Medicare & Medicaid Services (CMS) has long supported state flexibility to design innovative Medicaid demonstrations that improve program outcomes and promote fiscal sustainability through section 1115(a) of the Social Security Act (the Act).

Wyoming’s demonstration application proposes to leverage opportunities through Medicaid to regulate the costs associated with air ambulance services provided to all Wyomingites when such regulation is otherwise precluded by the Airline Deregulation Act of 1978. I want to reiterate in writing our previous discussions regarding CMS’ concerns that the state’s proposal, previously shared in draft form by the state, now formally submitted, does not align with the core objectives of Medicaid and of section 1115(a) of the Act and is not an intended use of section 1115(a) authority.

Under section 1115(a) of the Act, the Secretary of Health and Human Services (“Secretary”) or CMS, operating under the Secretary’s delegated authority, may authorize a state to conduct experimental, pilot, or demonstration projects that, in the judgment of the Secretary, are likely to assist in promoting the objectives of title XIX of the Act. The Secretary (1) may, under section 1115(a)(1), waive provisions in section 1902 of the Act; and/or (2) may, under section 1115(a)(2)(A), authorize federal financial participation (FFP) for state expenditures that would not qualify for FFP under section 1903 of the Act (i.e., provide “expenditure authority”). Section 1902 of the Act lists what elements the Medicaid state plan must include, such as provisions relating to eligibility, beneficiary protections, benefits, services, and premiums. Section 1903, “Payments to States,” describes expenditures that may be “matched” with federal title XIX dollars, allowable sources of non-federal share, and managed care requirements.

Section 1115(a) of the Act cannot be used to circumvent other federal statutes, including the preclusion clause set forth in the Airline Deregulation Act of 1978, which specifically precludes state regulation of matters related to air carrier rates, routes, and services. As noted above, the

Secretary may approve a demonstration project under section 1115(a) of the Act if, in his judgment, the project is likely to assist in promoting the objectives of title XIX.

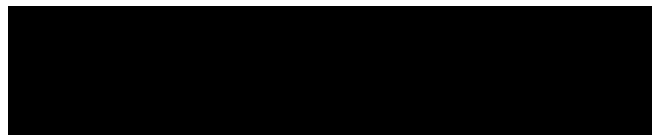
While the proposed Wyoming Medicaid Coordinated Air Ambulance Network demonstration is expected to serve Medicaid beneficiaries, those services are already authorized in Wyoming's Medicaid state plan. Using the Medicaid administrative structure to provide services to other individuals in the state as a mechanism to avoid the application of federal aviation law is a clear departure from the core, historical mission of the Medicaid program to provide health coverage to the Medicaid eligible population.

Furthermore, CMS will not approve a demonstration project under section 1115(a) of the Act unless the project is expected to be budget neutral, that is, the demonstration project may not result in Medicaid costs to the federal government that are greater than what the federal government's Medicaid costs in the state would likely be absent the demonstration. The state's proposed approach to budget neutrality as provided in its application does not indicate that the proposed Wyoming Medicaid Coordinated Air Ambulance Network demonstration is or would ever be budget neutral.

Given the above, it seems we will not be able to approve the state's application as proposed and we do not have alternative solutions given the nature of the request. However, the CMS team is committed to working with your team to provide feedback on alternative approaches the state may have in support of your efforts to design reforms that promote greater fiscal and programmatic sustainability for your Medicaid program and the beneficiaries you serve.

If you have any questions regarding this letter, please contact Mrs. Judith Cash, Director, State Demonstrations Group (SDG), Centers for Medicaid and CHIP Services (CMCS) at (410) 786-9686.

Sincerely

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Calder Lynch  
Acting Deputy Administrator and Director