



**DEPARTMENT OF HEALTH & HUMAN SERVICES**  
**Health Care Financing Administration**

**Center for Medicaid and State Operations**  
**7500 Security Boulevard**  
**Baltimore, MD 21244-1850**

February 5, 1997

Dear State Medicaid Director:

The purpose of this letter is to communicate HCFA's policies on implementing those provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) that relate to welfare reform demonstrations conducted under section 1115 of the Social Security Act. The focus of this letter is not on health reform demonstration projects also conducted under section 1115. Below are guidelines regarding the interpretation of section 1931 of title XIX as added by section 114 of PRWORA, continuation of title XIX waivers under section 1115 welfare reform demonstrations, budget neutrality, evaluation requirements, and the process for informing HCFA of your intent to continue waivers. In addition, a list of Questions and Answers on related issues is attached. The Medicaid Bureau has issued a 'State Medicaid Manual' that outlines basic policies related to the impact of welfare reform on Medicaid outside of waiver situations.

The welfare reform demonstration projects approved under the authority of section 1115 primarily involve waivers of pre-welfare reform title IV-A. Many of these projects also involve waivers of provisions of title XIX and/or provisions of the Food Stamp Act of 1977. In addition, States have been granted Costs Not Otherwise Matchable (CNOM) authority under section 1115(a)(2) as part of their demonstrations by both the Administration for Children and Families and HCFA. This authority allows States to receive Federal matching payments for specified expenditures that would not ordinarily be matchable. These expenditures are usually incurred as the result of eligibility liberalizations affecting the AFDC and/or Medicaid programs. The most common example of a CNOM granted by HCFA allows for the extension of transitional Medicaid benefits beyond the 12 months provided for in section 1925. As part of welfare reform demonstrations, HCFA has also granted CNOMs to many States to liberalize the section 1925 eligibility requirements for transitional Medicaid benefits (e.g., not requiring that individuals receive AFDC in 3 of the 6 months prior to becoming ineligible for AFDC due to employment). The term "waiver" as used below, should be understood to include both the actual waivers and CNOMs. The PRWORA directly affects only waivers of pre-welfare reform title IV-A provisions. Waivers of title XIX granted by HCFA as part of welfare reform demonstrations are not affected.

**Interpretation of section 1931 relating to title IV-A waivers**

Section 1931(d) permits States to continue certain waivers of provisions of the pre-welfare reform title IV-A that affect Medicaid eligibility. These waivers may be continued whether or not a State elects to continue any other title IV-A or title XIX provisions of its welfare reform demonstration.

Section 1931 (b)(1) defines the basic criteria for determining Medicaid eligibility based upon AFDC eligibility criteria. These criteria include the income and resource standards and methodologies for determining eligibility under the title IV-A State plan that was in effect on July 16, 1996, and the State plan deprivation and specified relative rules that were in effect on that date. (The "title IV-A State plan that was in effect on July 16, 1996" refers to your AFDC State plan itself and not to any waivers of title IV-A you may have had in effect on that date.)

Section 1931 (b)(2) provides some flexibility for a State to change these criteria. In particular, section 1931 (b)(2)(C) allows States to use less restrictive income and resource methodologies than were used under the title TV-A State plan in effect on July 16, 1996. In many, if not most cases, this authority can be used to adopt more liberal policies which previously required use of the waiver authority. Many of the policies in your current (or pending) welfare reform demonstration projects can now be adopted or modified for determinations of Medicaid eligibility simply by submitting a Medicaid State plan amendment. In this case, you will not need to use section 1931(d) authority to continue waivers of pre-welfare reform title TV-A, as explained below.

Section 1931(d) permits the State to continue indefinitely any provision approved under waivers of the pre-welfare reform title TV-A affecting Medicaid eligibility if it was granted by the Department as of July 16, 1996, or submitted to the Department before August 22, 1996, and approved by the Secretary on or before July 1, 1997. However, section 1931(d) authorizes the continuation only of title TV-A waivers affecting Medicaid eligibility as established by section 1931(b) criteria, i.e., income and resource standards and methodologies, deprivation, and specified relative requirements. States cannot continue waivers under section 1931(d) that involve, for example, sanctions restricting Medicaid eligibility.

A State may decide prior to the expiration of its existing welfare reform demonstration project to exercise the option under section 1931(d) to continue for an indefinite period specified waivers of the pre-welfare reform title TV-A after the expiration of the demonstration project. If a State also dropped its Medicaid waivers, it would actually be discontinuing the Medicaid component of the welfare reform demonstration, but it would be retaining waivers of pre-welfare reform title TV-A provisions that affect Medicaid eligibility.

Some States with section 1115 welfare reform demonstrations have a special term and condition protecting the Medicaid eligibility of individuals who are terminated from AFDC due to AFDC demonstration provisions. With minor variations from State to State, the term and condition reads as follows:

For the purposes of Medicaid coverage, all individuals subject to the provisions of the demonstration will retain their Medicaid eligibility if they would have been eligible in the absence of these [AFDC] demonstration provisions. The authority in section 1931(d) does not relieve a State of its responsibility to comply with the terms and conditions under which the waivers were granted. It only permits a State to continue a waiver subject to the limitations that apply to the waiver. The term and condition was added to assure that title IV-A demonstration waivers do not negatively affect Medicaid eligibility. In our review of your State's request for continuation of title IV-A waivers under section 1931(d), we will determine if your request is consistent with the term and condition, if this term and condition is part of your State's demonstration.

### **Continuation of title XIX waivers**

Many States with welfare reform demonstrations also received waivers of title XIX, which expire at the end of the demonstration. However, States may elect to terminate their title XIX waivers at any time prior to expiration of the demonstration. This decision is independent of the decision to continue pre-welfare reform title IV-A waivers that affect Medicaid eligibility, as provided for in section 1931(d).

### **Budget neutrality for title XIX waivers**

States will not be required to demonstrate budget neutrality for previously accrued cost liabilities if they elect to terminate existing title XIX waivers. Also, States will not be required to demonstrate budget neutrality for liabilities accrued in the future if they choose to continue their existing title XIX waivers. In the case of continued waivers, budget neutrality will be forgiven through the expiration date of the welfare reform demonstration. On the other hand, any new Medicaid waivers that are approved after August 22, 1996, will be subject to a budget neutrality test. This includes waivers approved as amendments to existing demonstrations as well as any Medicaid waivers a State may request as part of a new demonstration project.

## **Evaluation requirements**

States with continued or newly approved Medicaid waivers will be required to conduct an evaluation. Because these are demonstration projects, States will be expected to assess the impact of the Medicaid waivers (especially extended Medicaid transitional benefits). Use of a control group design is strongly recommended, although States may propose other designs expected to yield reliable results.

### **Process for informing HCFA of intent to continue waivers**

Each State must select one of the following options regarding its existing Medicaid waivers (including Costs Not Otherwise Matchable authority). Medicaid waivers may be continued only through the end of the welfare reform demonstration.

1. Continue all Medicaid waivers
2. Continue only some Medicaid waivers
3. Continue none of the Medicaid waivers

In addition, each State must select one of the following options regarding its existing waivers of pre-welfare reform title TV-A affecting Medicaid eligibility (i.e., income and resource standards and methodologies, deprivation, and specified relative rules). This group of waivers may be continued indefinitely.

1. Continue all pre-welfare reform title TV-A waivers eligible for continuation under section 1931
2. Continue only some of the pre-welfare reform title TV-A waivers eligible for continuation under section 1931
3. Continue none of the title pre-welfare reform TV-A waivers eligible for continuation under section

Your decisions regarding these two groups of waivers, including a list of the specific waivers and CNOMs to be continued (if any), should be communicated in writing to the HCFA project officer who is responsible for the demonstration(s) in your State. Please send this information to: (Name of project officer) Health Care Financing Administration Office of State Health Reform Demonstrations 7500 Security Boulevard, Mail Stop C3-18-26 Baltimore, Maryland 21244-1850

Questions may be directed to Alisa Adamo (410) 786-6618, Maria Boulmetis (410) 786-0552, or Joan Peterson, Team Leader (410) 786-0621. These project officers will review the materials you submit. They will also work with you in the coming months to revise your evaluations and remaining terms and conditions for the demonstration, as necessary.

With regard to the two sets of options listed above, a State may elect to continue some or all of its title XIX waivers and also some or all of its pre-welfare reform waivers of title TV-A affecting Medicaid eligibility. Another possibility is for a State to terminate all Medicaid waivers and keep some or all of its pre-welfare reform title TV-A waivers affecting Medicaid eligibility (but no other title TV-A waivers). The latter scenario is equivalent to discontinuing the Medicaid component of the welfare reform demonstration. If your State chooses either of these two approaches, please notify the demonstration project officer in writing and also submit a Medicaid State plan amendment to your HCFA Regional Office in order to incorporate the policies regarding Medicaid eligibility that are to be continued.

Sincerely,

/s/

Barbara S. Cooper,

Acting Director, Office of Research and Demonstrations

Enclosure cc:

HCFA Regional Administrators

HCFA Associate Regional Administrators for Medicaid

Lloyd Bishop, OLIGA

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State Welfare Reform Demonstration Project Officers

Jennifer Bexendall, NGA

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## QUESTIONS AND ANSWERS

- 1. May a State continue its section 1115 Medicaid waivers granted by HCFA as part of a welfare reform demonstration if it decides to drop the ACF portion of the welfare reform demonstration?**

Yes. In many cases, States can accomplish their welfare reform objectives under PRWORA, and so no longer need all (or possibly any) of the title IV-A waivers they received as part of their welfare reform demonstrations. In addition, a State may decide to continue only those title IV-A waivers affecting Medicaid eligibility, in accordance with section 1931(d) of PRWORA. However, a State may elect to retain any or all of its Medicaid waivers and Costs Not Otherwise Matchable authority, regardless of what it decides to do with its title IV-A waivers.

- 2. What policies in a welfare reform demonstration project can be adopted for determinations of Medicaid eligibility through a Medicaid State plan amendment rather than continuation of a waiver of pre-welfare reform title IV-A? Please provide examples.**

A State may use a Medicaid State plan amendment to adopt more liberal methods of determining either countable income and resources or deprivation. A Medicaid State plan amendment may also be used to adopt less restrictive policies concerning the requirement that a child live with a specified relative. Any policy adopted by a Medicaid State plan amendment must apply to all determinations of Medicaid eligibility under the new eligibility group created by section 1931.

**Example 1.** Under a welfare reform demonstration project, a State has been granted a waiver of section 402(a)(8)(B) to enable the State to disregard the first \$100 of earned income and ~ of the remainder. This is more liberal than the \$30 and 1/3 disregard in the title IV-A State plan in effect on July 16, 1996 and can be implemented by a Medicaid State plan amendment. The State does not need to continue the title IV-A waiver of section 402(a)(8)(B).

**Example 2.** As part of its welfare reform demonstration, a State has been granted a waiver of 45 CFR 233.20(a)(3)(I)(B)(2) to enable the State to exclude one car of any value. This is more liberal than the \$1,500 exclusion in the title IV-A State plan on July 16, 1996 and can be implemented by a Medicaid State plan amendment. The State does not need to continue the waiver of title 45.

In addition, a State with pending title IV-A waivers submitted prior to August 22, 1996, involving more liberal methods of determining either countable income and resources or deprivation can implement these more liberal methods through a Medicaid State plan amendment rather than by obtaining waivers of pre-welfare reform title IV-A.

- 3. Does section 415 of PRWORA have any applicability to Medicaid waivers in welfare reform demonstrations?**

This section of the law permits States to continue all or some of the title IV-A demonstration waivers granted under section 1115 of the Social Security Act either in effect as of August 22, 1996, or submitted prior to August 22, 1996, and approved on or before July 1, 1997. These title IV-A waivers may remain in effect until the expiration of the welfare reform demonstration (without regard to any extensions). However, section 415 does not address the continuation of Medicaid waivers granted as part of a welfare reform demonstration and so does not apply to Medicaid.

- 4. May existing substate demonstrations involving Medicaid waivers be extended statewide?**

No. These demonstrations were approved to test provisions on a limited geographic basis. There is no rationale for automatically extending them statewide. However, if a State were to propose an expansion that would be budget neutral, HCFA would consider it.

However, a State may apply title IV-A waivers affecting Medicaid eligibility under section 1931(d) on a statewide basis if these waivers had previously been applied to a statewide treatment group as

part of the randomized design required by ACF as part of the previous welfare reform demonstration. In other words, the State could apply the title TV-A waivers to individuals who had been in the control group during the previous welfare reform demonstration.

**5. May States with section 1115 health reform demonstrations cover individuals as uninsured if they lose Medicaid eligibility because of welfare reform?**

States will not be able to cover new qualified immigrants during the 5-year bar as uninsured individuals under health reform demonstrations. For States that cover the uninsured as part of their health reform demonstrations, these States may cover other individuals who lose eligibility for Medicaid by virtue of the loss of eligibility for SSI if these individuals otherwise meet the eligibility requirements for the uninsured of the health reform demonstrations.

**6. May States with section 1115 health reform demonstrations expand eligibility through a State plan amendment using the less-restrictive-methodology provision in welfare reform?**

States with section 1115 health reform demonstrations may expand eligibility using the State plan amendment process. However, they will need to discuss budget neutrality considerations with HCFA prior to submitting any State plan amendments.