
February 12, 2021

Jami Snyder
Director
Arizona Health Care Cost Containment System
801 East Jefferson Street
Phoenix, Arizona 85034

Dear Ms. Snyder:

On January 18, 2019, the Centers for Medicare & Medicaid Services (CMS) approved Arizona's request for an amendment to its section 1115 demonstration project, entitled, "Arizona Health Care Cost Containment System (AHCCCS)," (Project No. 11-W-00275/9) in accordance with section 1115(a) of the Social Security Act (the Act). This amendment authorized the state to require some AHCCCS beneficiaries ages 19 through 49, with certain exceptions, to participate in and timely report 80 hours per month of community engagement activities, such as employment, education, job skills training, or community service, as a condition of continued Medicaid eligibility. By its terms, the demonstration will expire on September 30, 2021.

Under section 1115 and implementing regulations, CMS has the authority and responsibility to maintain continued oversight of demonstration projects in order to ensure that they are currently likely to assist in promoting the objectives of Medicaid, and CMS may withdraw waivers or expenditure authorities if it "find[s] that [a] demonstration project is not likely to achieve the statutory purposes." 42 C.F.R. 431.420(d); see 42 U.S.C. 1315(d)(2)(D).

The AHCCCS community engagement requirement is not in effect. On October 17, 2019, Arizona postponed the implementation of the community engagement program, AHCCCS Works, citing the ongoing litigation concerning Medicaid community engagement programs. Since that time, the COVID-19 pandemic has made community engagement infeasible. In addition, implementation of the community engagement requirement is currently prohibited by the Families First Coronavirus Response Act (FFCRA), Pub. L. No. 116-127, Div. F, § 6008(a) and (b), 134 Stat. 208 (2020), which conditioned a state's receipt of an increase in federal Medicaid funding during the pandemic on the state's maintenance of its existing Medicaid parameters. Arizona has chosen to claim the 6.2 percentage point FFCRA Federal Medical Assistance Percentage (FMAP) increase, and therefore must maintain the enrollment of beneficiaries who were enrolled as of, or after, March 18, 2020. Although that statutory bar will expire after the COVID-19 public health emergency ends, CMS has serious concerns about testing policies that create a risk of a substantial loss of health care coverage in the near term. The COVID-19 pandemic has had a significant impact on the health of Medicaid beneficiaries. Uncertainty regarding the current crisis and the pandemic's aftermath, and the potential impact on economic opportunities (including job skills training and other activities used to satisfy community engagement requirements, i.e., work and other similar activities), access to transportation and to affordable child care have greatly increased the risk that implementation of

the community engagement requirement approved in this demonstration will result in unintended coverage loss. In addition, the uncertainty regarding the lingering health consequences of COVID-19 infections further exacerbates the harms of coverage loss for Medicaid beneficiaries.

Taking into account the totality of circumstances, CMS has preliminarily determined that allowing work and other community engagement requirements to take effect in Arizona would not promote the objectives of the Medicaid program. Therefore, CMS is providing the state notice that CMS is commencing a process of determining whether to withdraw the authorities approved in the AHCCCS demonstration that permit the state to require work and other community engagement activities as a condition of Medicaid eligibility. See Special Terms & Conditions ¶ 11. If the state wishes to submit to CMS any additional information that in the state's view may warrant not withdrawing those authorities, such information should be submitted to CMS within 30 days. If CMS ultimately determines to withdraw those authorities, it "will promptly notify the State in writing of the determination and the reasons for the amendment and withdrawal, together with the effective date, and afford the State an opportunity to request a hearing to challenge CMS' determination prior to the effective date." *Id.*

The AHCCCS demonstration project also includes various other authorities that CMS approved in the demonstration. CMS will also review those other authorities and will follow up with the state when that review is complete.

If you have any questions, please contact Judith Cash, Acting Deputy Director, Center for Medicaid and CHIP Services, at (410) 786-9686.

Sincerely,

A solid black rectangular box redacting the signature of Elizabeth Richter.

Elizabeth Richter
Acting Administrator

cc: Brian Zolynas, State Monitoring Lead, Medicaid and CHIP Operations Group