Medicaid and CHIP MAC Learning Collaboratives

Coverage Expansion Learning Collaborative

Medicaid Premium Assistance in the Employer Sponsored Insurance Market

January 28, 2015

1:30-3:00pm ET

URL: https://manatt.webex.com/manatt/onstage/g.php?MTID=e560c96c397238b3d11dfbd6ea9d87d65
Event Password: Coverage2015
Dial: 1-866-922-3257
Passcode: 504 532#

Agenda

- Background Context
- Legal Authority & Vehicles for Authorization
- Key Policy & Operational Questions for Discussion

Background Context

Medicaid ESI Premium Assistance

- Premium assistance enables states to pay premiums on behalf of employees so they can purchase a product that helps to cover the costs of some of the services for which they are eligible under Medicaid.
- Premium Assistance does not impact the state's requirement to provide all Medicaid benefits to consumers.
- States may use ESI premium assistance in conjunction with a range of delivery models.

Employer

- **Offers and contributes to cost of a group health plan on behalf of Medicaid-eligible individual**

Medicaid

- **Pays employee share of employer-based coverage for individuals when cost effective to help pay for some medical assistance needs**
- **Ensures consumer does not incur cost of premiums or cost-sharing above Medicaid limits**
- **Remains responsible for providing any medical assistance not available through ESI (e.g., missing benefits such as NEMT and EPSDT)**

ESI premium assistance is **NOT**:

QHP/individual market premium assistance (e.g., Arkansas' Private Option) or

Medicaid managed care (i.e., Part 438 rules do not apply)

Medicaid ESI Premium Assistance is also often referred to as the Health Insurance Premium Payment (HIPP) program

State Interest in and Challenges with ESI Premium Assistance

REASONS STATES HAVE CITED FOR PURSUING ESI PREMIUM ASSISTANCE

- Retain employer funding in the state's insurance market
- Utilize employer contributions to coverage, potentially generating state savings
- Reduce churning among coverage sources for those with access to ESI
- Allow Medicaid beneficiaries with ESI to maintain existing provider relationships
- In the past, provide coverage to individuals not otherwise eligible for coverage (required a waiver)

CHALLENGES STATES MAY FACE PURSUING ESI PREMIUM ASSISTANCE

- Administering program considering potential administrative complexity for both states and consumers
- Identifying offer of ESI
- Evaluating eligibility for and cost-effectiveness of purchasing ESI
- Implementing benefit and cost-sharing wrap in accordance with requirements, particularly given variation in ESI per employer
- Arranging payments for ESI providers who do not participate in Medicaid
- Financing administrative costs associated with operation of program

State Implementation of ESI Premium Assistance

STATE IMPLEMENTATION OF ESI PREMIUM ASSISTANCE

Vast majority of states already operate ESI premium assistance, though typically of a modest size

- In 2009, the GAO identified 39 states with premium assistance programs. The GAO received survey responses from 37 states operating 45 premium assistance programs (states may operate multiple programs that vary in the populations they serve). The 45 programs include: 30 Medicaid; 6 CHIP; 9 with both.*
- 25 of the programs (15 Medicaid; 6 CHIP; and 4 with both) had fewer than 1,000 enrollees*
- 25 of the programs were voluntary (17 Medicaid; 5 CHIP; 3 with both); 20 (13 Medicaid; 1 CHIP; 6 with both) mandated enrollment*

There has been growing interest in ESI premium assistance, particularly among Medicaid expansion states

- In 2014, Iowa and New Hampshire explicitly covered newly eligible adults with access to cost-effective ESI through premium assistance as part of their Medicaid expansion under the ACA
- Other Medicaid expansion states may be covering new adults through existing ESI premium assistance programs

* http://www.gao.gov/products/GAO-10-258R

Key Components of an ESI Premium Assistance Program

To implement an ESI Premium Assistance program, the state must:

- **Determine that coverage through ESI is "cost-effective"**, meaning that the cost of premiums, the cost of the benefit and cost-sharing wraps and administrative costs are less than the cost to Medicaid of providing comparable coverage directly
- **Ensure consumer does not incur costs of premiums and cost-sharing beyond Medicaid limits**
  - In some circumstances, Medicaid may also cover premiums (but not cost-sharing) for Medicaid-ineligible family members
- **Provide Medicaid benefits** not covered through ESI
- **Act as secondary payor** on ESI covered service reimbursement for providers

Additional Considerations for Mandatory ESI Premium Assistance

State option to make ESI premium assistance mandatory without a waiver

- **A mandatory program may condition an individual's Medicaid eligibility on their cooperation** with the ESI premium assistance program (i.e., if they do not send information required to determine eligibility or if they do not enroll in an ESI plan determined cost-effective, they may be terminated from Medicaid)
- **Children's participation must be voluntary**

Implementation of a mandatory ESI premium assistance program has a number of operational considerations. For example, how might a state:

- Define "cooperation" for: (a) providing information about ESI plans, and (b) enrolling in ESI coverage?
- Define how long individuals have to comply with cooperation requirements?
- Define "good cause" circumstances for failure to cooperate, if at all?
- Ensure children/spouses are not disenrolled for a policyholder's failure to cooperate?

Legal Authority & Vehicles for Authorization

Comparison of Medicaid ESI Premium Assistance Authorization Vehicles

- Authority to establish a Medicaid ESI premium assistance program has existed since 1990 – through SSA 1906.
- Additional authority under 1906A was established in 2009. In 2014, the ACA modified 1906A, such that now there is significant alignment between the two statutory authorities.

More information on SSA 1906 and 1906A included in Appendix

	SSA 1906 "Enrollment of Individuals under Group Health Plans"	SSA 1906A "Premium Assistance Option"
Eligibility	All Medicaid eligibles	All Medicaid eligibles
Voluntary or Mandatory	Voluntary or Mandatory	Voluntary
Employer contribution	n/a	Employer must contribute at least 40% of total premium

Notes

- Premium assistance programs must cover all Medicaid benefits not covered by the ESI benefit package and ensure cost-sharing is covered above Medicaid permissible limits.
- Through SSA 1906, children may not have their Medicaid eligibility conditioned on a parent's enrollment into the premium assistance program
- Premium assistance programs authorized through any vehicle must determine that the ESI is "cost effective," taking into account the cost of premiums, the cost of the benefit and cost-sharing wraps, and administrative costs

This chart represents the major routes states have used to implement ESI premium assistance. While not in detail here, CMS is also reviewing the extent to which ESI premium assistance can be authorized under SSA 1905.

Authorization for Medicaid ESI Premium Assistance: 1115 Waiver

A state must submit a waiver for CMS approval if the state wishes to:

- Use an alternative cost effectiveness calculation
- Modify benefits or cost-sharing, but:
  - States must provide benchmark coverage to the new adult group to be eligible for the enhanced federal match
  - Special statutory limits on waiving cost-sharing requirements exist
  - CMS has not approved modifications to benefit and cost-sharing wraps in premium assistance programs for state plan populations in demonstrations

Key Policy & Operational Questions for Discussion

ESI Premium Assistance Key Issue Areas

Benefits

Premiums

Cost-Sharing

Provider Reimbursement

Appeals

Benefits: Requirements & Considerations

Benefit Wrap Rule

"The Benefit Wrap": States must ensure beneficiaries are able to access all Medicaid benefits that are not covered in the ESI package (e.g., dental, vision, non-emergency medical transportation, among others). For children up to 21 years old, this includes wrapping EPSDT benefits not covered in the ESI benefit package.

Challenges with Benefit Wrap

Lack of Standardization

- There is no standardization in benefit packages offered by employers

Options for Implementation

Options for effectuating the benefit wrap

- Provide a separate Medicaid card to beneficiaries to cover Medicaid benefits not provided through ESI

Benefit Wrap: Discussion

Questions for Discussion

- How does your state wrap Medicaid benefits around ESI?
  - For the state: Through coordination of benefits/third party liability systems?
  - For consumers: Provide a Medicaid card in addition to the ESI card?
  - Other?
- How does your state wrap to different Medicaid benefit packages (i.e., wrap EPSDT for children; wrap to the Alternative Benefit Plan for new adults; wrap to the Pregnant Women benefit package for pregnant women; etc.)?
- What benefits does your state most often wrap?
- Does your state have recommendations that would make the benefit wrap easier to administer?

Premiums: Requirements & Considerations

Premium Requirements

- Medicaid must ensure beneficiaries do not incur a premium above Medicaid permissible limits
- In general, states may not reimburse beneficiaries after they incur the cost of the premium, either through direct payment or deduction from salary

Absent a waiver, Medicaid premium rules apply (see Appendix)

Options for Implementation

- **How will the state effectuate premium payment?**
  - Send payment directly to carrier
  - Send payment directly to employer
  - Create account enrollee may use to pay premiums

Premium Payment: Discussion

Questions for Discussion

- How does your state currently cover the premium costs for ESI premium assistance enrollees?
  - Electronic funds transfer?
  - Check?
  - Other?
- What are the major challenges associated with paying premiums?
- What tools, if any, would assist you in paying premiums up-front?
- Does your state conduct verifications to ensure an individual is still covered through their ESI before paying the premium?
- Does your state have any recommendations for simplifying premium payment?

Cost-Sharing: Requirements & Considerations

Cost-Sharing Requirements

- All **Medicaid cost-sharing protections apply** to enrollees of ESI premium assistance programs
- **"The Cost Sharing Wrap":** Beneficiaries may not incur costs beyond Medicaid limits, regardless of whether provider participates in Medicaid, for Medicaid services
  - Medicaid protections do not apply when enrollee uses ESI to access non-Medicaid covered services
- Aggregate cost-sharing imposed on a family with income <150% FPL **may not exceed 5% of family income** on a monthly or quarterly basis
- States are required **to track an individual's cost-sharing payments** in order to determine when the 5% aggregate maximum is reached, if reasonable risk that beneficiary could reach the aggregate cap

Absent a waiver, Medicaid cost-sharing rules apply (see Appendix)

Challenges

Prevention of Consumer Up-Front Payment
- In general, states are obligated to ensure beneficiaries do not make up-front payments for subsequent reimbursement

Lack of Standardization:
- States must wrap cost-sharing around a broad array of plans, each potentially with different cost-sharing designs

Administrative Complexity of Tracking:
- States must track cost-sharing payments across Medicaid and ESI if beneficiary is at risk of hitting 5% cap

Discussion of challenge to administer reimbursements to provider addressed in next section

Options for Implementation

How will the state effectuate the cost-sharing wrap?
- Provide a separate Medicaid card to beneficiaries to cover cost-sharing
- Must track cost-sharing to ensure compliance with aggregate cost rule if beneficiary at risk of hitting 5% cap

Cost-Sharing Wrap: Discussion

Questions for Discussion

- How does your state wrap cost-sharing for Medicaid enrollees?
  - Provide separate Medicaid benefit card to ensure provider does not charge enrollee?
  - Provide Health Savings Account-like card for cost-sharing?
- How does your state track cost-sharing against the 5% cap?
- Does your state have any recommendations that would make the cost-sharing wrap easier to administer?

Provider Reimbursement: Rules & Considerations

Provider Reimbursement

- States may require ESI premium assistance enrollees to access services when reasonably available through the ESI network of providers.
- If provider participates in ESI and Medicaid:
  - Medicaid acts as payer of last resort
  - In instances where Medicaid must step in to protect consumer from cost-sharing, state can choose to reimburse at Medicaid allowable limits or ESI negotiated rates
- If provider only participates in ESI: ESI negotiated rate must be paid; Medicaid must protect consumer from cost-sharing obligations in excess of Medicaid allowable limits

Challenge

- **Prevention of Consumer Up-Front Payment**
  - State is obligated to ensure beneficiaries do not make up-front payments for cost sharing or deductible
- **Assuring Accurate Provider Reimbursement**
  - State may be required to reimburse a provider not participating in Medicaid

Reimbursement for Provider in Medicaid & ESI

Reimbursement Scenario

For providers who are in the Medicaid and ESI networks:

- How does your state reimburse the provider? At the Medicaid limit? At the ESI negotiated limit?

ESI Enrollee (no Medicaid): Payment for PCP Visit

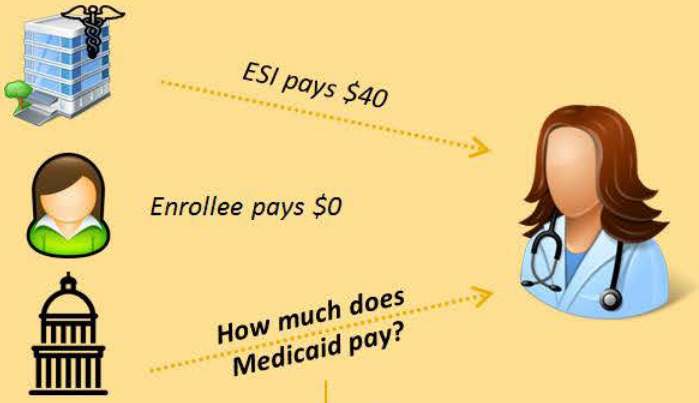
ESI Negotiated Rate ($60):

- ESI carrier payment = $40
- Consumer co-pay = $20

Medicaid ESI Premium Assistance: Payment for PCP Visit

Medicaid Allowable Limits ($30):

- Medicaid payment = $30
- Consumer co-pay = $0



$0 (if state has decided to reimburse at Medicaid limits)
$20 (if state has decided to reimburse at ESI levels)

Reimbursement for Provider Only in ESI

Reimbursement Scenario

For providers in the ESI network not participating in Medicaid:

- How does the state reimburse the provider?
- How does the state ensure the enrollee is not charged more than the Medicaid out-of-pocket limit?

ESI Enrollee (no Medicaid): Payment for Specialist Visit

ESI Negotiated Rate ($80):

- ESI carrier payment = $55
- Consumer co-pay = $25

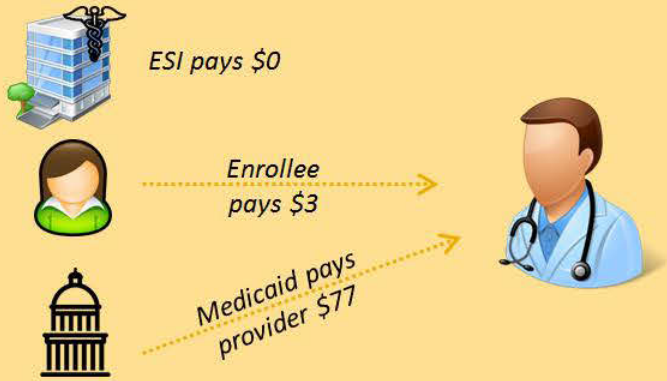
ESI deductible not yet met

Medicaid ESI Premium Assistance: Payment for Specialist Visit

Medicaid Allowable Limits ($43):

- Medicaid payment = $40
- Consumer co-pay = $3

ESI deductible not yet met



Appeals: Requirements

Appeals Requirements

- Medicaid beneficiaries have a statutory and constitutional right* to a "Medicaid fair hearing"
- Commercial appeals processes used by the ESI carrier may not align with the Medicaid fair hearing requirements in several key areas:
  - Opportunity for a hearing conducted by a governmental agency
  - Timeframes for appeal processes, including decisions
  - Aid continuing (i.e., accessing "continued benefits" during appeal process)
  - Right to testify/appear on your own behalf
  - Right to cross-examine
- States may use the ESI carrier's appeals process in a Medicaid premium assistance program, to the extent it complies with, or may be supplemented to assure, provision of rights listed above

*1902(a)(3) of the Social Security Act; *Goldberg v. Kelly* 397 U.S. 254 (1970)
Additional Sources: 42 CFR Part 431, Subpart E; 42 CFR § 431.242

Further Issues for Discussion

Questions for Discussion

- How does your state administer its ESI premium assistance program? With state employees? Through a vendor?
- Are there any other major challenges your state faces in implementing the program?
- Are there any opportunities to reduce the administrative burden of implementation?
- What recommendations does your state have for other states?
- What recommendations does your state have for CMS regarding policy clarifications or changes?

Thank you!

Appendix

Authorization for Medicaid ESI Premium Assistance: SSA § 1906

SSA § 1906: Enrollment of Individuals under Group Health Plans

Authorizes states to use Medicaid dollars "for payment of all enrollee premiums . . . and all deductibles, coinsurance, and other cost-sharing obligations " for Medicaid-eligible individuals who are eligible for group health coverage

Requires that enrollees receive the same benefits and cost sharing protections as other Medicaid enrollees

May be voluntary or mandatory, at state discretion

- Children may not be disenrolled for policyholder's failure to cooperate

Must determine that ESI is "cost effective," taking into account the cost of premiums, the cost of the benefit and cost-sharing wraps, and administrative costs

Authorization for Medicaid ESI Premium Assistance: SSA § 1906A

SSA § 1906A: Premium Assistance Option

- Authorizes states to use Medicaid dollars to "offer a premium assistance subsidy for qualified employer-sponsored coverage to all individuals who are entitled to medical assistance"
- Requires enrollees to receive the same benefits and cost sharing protections as other Medicaid enrollees
- Must be voluntary
- Requires a 40% minimum employer contribution to total premium
- Must determine that the ESI is "cost effective," taking into account the cost of premiums, the cost of the benefit and cost-sharing wraps, and administrative costs

Before the ACA, SSA 1906A only authorized ESI premium assistance for Medicaid-eligible children and their parents

Medicaid Premium & Cost-Sharing Rules

	< 100% FPL	100% - 149% FPL	≥ 150% FPL
Maximum Allowable Medicaid Premiums and Cost-Sharing			
Aggregate Cost-Sharing Cap	5% household income	5% household income	5% household income
Premiums	Not allowed	Not allowed	Permitted, subject to aggregate cap
Maximum Service-Related Co-pays/Co-Insurance			
Outpatient services	$4	10% of cost the agency pays	20% of cost the agency pays
Non-emergency ER	$8	$8	No limit
Rx Drugs	Preferred: $4 Non-Preferred: $8	Preferred: $4 Non-Preferred: $8	Preferred: $4 Non-Preferred: 20% of cost the agency pays
Institutional	$75 per stay	10% of total cost the agency pays for the entire stay	20% of total cost the agency pays for the entire stay

- Specific services are exempt from cost-sharing, including emergency services, family planning and pregnancy-related services
- Specific populations are exempt from cost-sharing requirements (e.g., pregnant women, spend-down beneficiaries, and individuals receiving hospice). However, exempt individuals may be charged cost-sharing for non-preferred drugs and non-emergency use of the emergency room
- Services may not be denied for individuals who fail to make co-payments if their income <100% FPL; services may be denied for those with incomes >100% FPL
- If non-preferred drugs are medically necessary, preferred drug cost sharing applies

Sources: SSA § 1916 and 1916A