

# **Florida Managed Medical Assistance Waiver**

**1115 Research and Demonstration Waiver  
Project Number 11-W-00206/4**

## **Amendment Request - Low Income Pool and Retroactive Eligibility**

**04/27/2018**

**Agency for Health Care  
Administration**



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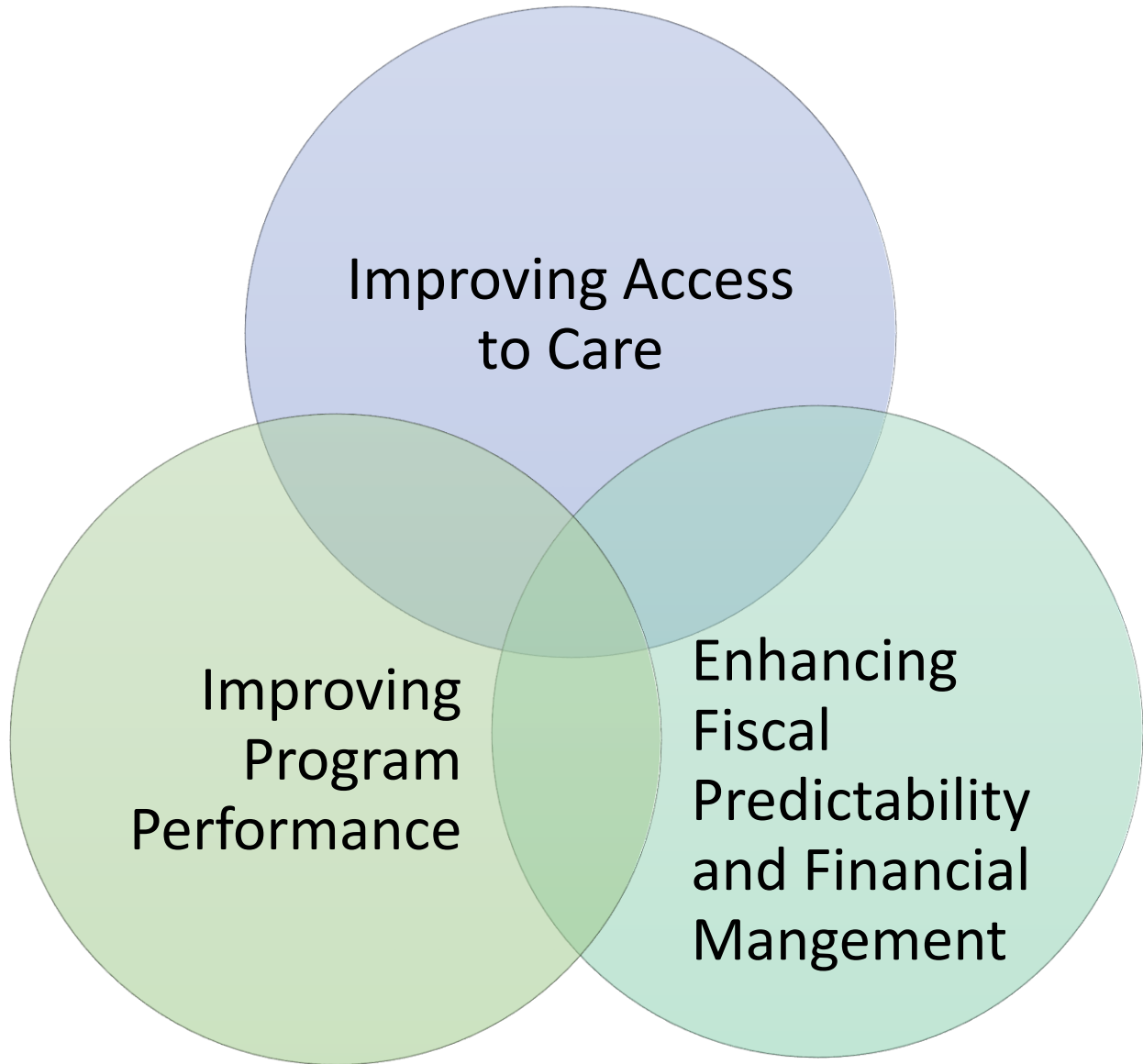
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## Introduction

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The Managed Medical Assistance (MMA) program improves health outcomes for Florida Medicaid recipients while maintaining fiscal responsibility. This is achieved through care coordination, patient engagement in their own health care, enhancing fiscal predictability and financial management, improving access to coordinated care and improving overall program performance.



# Purpose, Goals, and Objectives

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## Statement of Purpose

The Agency for Health Care Administration (Agency) is seeking federal authority to amend Florida Medicaid's 1115 MMA Waiver (Project Number 11-W-00206/4) to:

- Modify the Low Income Pool (LIP) Special Terms and Conditions (STCs) to add:
  - Regional Perinatal Intensive Care Centers (RPICCs) as an eligible hospital ownership subgroup effective State Fiscal Year (SFY) 2017/18.
  - Community behavioral health providers as a participating provider group effective SFY 2018/19.
- Eliminate the three-month Medicaid retroactive eligibility period for non-pregnant recipients aged 21 years and older (adults) effective July 1, 2018. Eligibility will continue to begin the first day of the month in which a non-pregnant adult applies for Florida Medicaid.

## Historical Overview

Regional Perinatal Intensive Care Centers work to improve the outcome of pregnancy and the quality of life from birth. These centers provide obstetrical services to women who have a high-risk pregnancy and care for newborns with special health needs, such as critical illnesses or low birth weight. Community behavioral health services include mental health and substance abuse treatment services provided to recipients with mental health, substance use, and co-occurring mental health and substance use disorders for the maximum reduction of the recipient's disability and restoration to the best possible functional level.

In 1991, Florida's State Plan was amended to include provisions facilitating retroactive eligibility up to the third month before the recipient's application date.

In 2005, the State received CMS approval for Florida's 1115 MMA Waiver, previously named "Medicaid Reform". The "Medicaid Reform" program operated in Broward, Duval, Baker, Clay and Nassau Counties, and established LIP to ensure continued support for the provision of health care services to Medicaid, underinsured, and uninsured populations.

In 2011, the Florida Legislature created Part IV of Chapter 409, Florida Statutes (F.S.), directing the Agency to create the Statewide Medicaid Managed Care (SMMC) program. The SMMC program has two key components: the MMA program and the Long-term Care program. The State submitted an amendment request to CMS to amend the 1115 Medicaid Reform Waiver in order to implement the MMA program. The State received approval from CMS on June 14,

2013 to terminate the Medicaid Reform program, implement the MMA program, and rename the waiver “Managed Medical Assistance”.

In 2014, the State received approval from CMS to extend all portions of the MMA Waiver for three years, with the exception of the LIP program. The approval from CMS only authorized extension of the LIP program for one year, from July 1, 2014 through June 30, 2015. During the one-year LIP extension, the State was required to use a portion of the funds to commission a report from an independent entity on Medicaid provider payment in the state that reviews the adequacy of payment levels, and the adequacy, equity, accountability and sustainability of the State’s funding mechanisms for these payments. On October 15, 2015, CMS approved an amendment that authorized the LIP program through June 30, 2017 based on the State’s revisions to the LIP program administration and fund distribution.

On August 3, 2017 the State received approval from CMS to extend all portions of the MMA Waiver, including the LIP program, for the period August 3, 2017 through June 30, 2022, allowing the State to continue operating the MMA program while increasing the LIP to \$1.5 billion annually. In 2018, the Florida Legislature directed the Agency to request authority to include RPICCs and community behavioral health providers as participating providers under LIP.

In 2018, the Florida Legislature approved a measure to eliminate the retroactive eligibility period for non-pregnant adults.<sup>1</sup>

For a complete history of the MMA Waiver, see Attachment I.

## Goals and Objectives

### **Low Income Pool**

The objective of this amendment is to include RPICCs and community behavioral health providers as participating providers in the LIP. The Florida Legislature identified both provider groups for inclusion in the LIP. Regional Perinatal Intensive Care Centers will be eligible to participate beginning in SFY 2017-2018, which began on July 1, 2017. Community behavioral health providers will be eligible to participate beginning in SFY 2018-2019.

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<sup>1</sup> Note: The State will submit a concurrent State Plan Amendment to remove the retroactive eligibility provisions for this population.

## **Retroactive Eligibility**

The objective of this amendment is to enhance fiscal predictability by eliminating the three-month retroactive eligibility period for non-pregnant adults. Eligibility will continue to begin the first day of the month in which a non-pregnant adult applies for Medicaid.

## Effect on Recipients

Modifying the LIP STCs will not have a direct impact on recipients. Recipients under the age 21 years (children) and adults who are pregnant will not be impacted by the proposed change to the retroactive eligibility period. Non-pregnant adults' Medicaid eligibility will begin on the first day of the month in which they submitted their application for Florida Medicaid. State analysis shows approximately 39,000 non-pregnant adult recipients were made retroactively eligible in SFY 2015/16. This represents less than 1% of all Florida Medicaid recipients.

## Federal Waiver and Expenditure Authorities

The State is requesting to continue all current waiver and expenditure authorities authorized on December 20, 2017, and to add the additional authority to waive Retroactivity Section 1902(a)(34) as specified in this amendment request.

The current approved waiver authorities and expenditure authorities are included in Attachment II, and in the STCs on the Agency's Web site at:

[http://ahca.myflorida.com/medicaid/Policy\\_and\\_Quality/Policy/federal\\_authorities/federal\\_waivers/mma\\_fed\\_auth.shtml](http://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/mma_fed_auth.shtml)

## Evaluation Design

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The current evaluation design includes research questions that sufficiently analyze the LIP program under this demonstration. Therefore, the State will not be modifying the evaluation based on this amendment.



## Budget Neutrality

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The State is required to provide an estimate of the expected increase or decrease in annual enrollment, and in annual aggregate expenditures, including historic enrollment or budgetary data, if applicable. This includes a financial analysis of any changes to the demonstration requested by the State in its amendment request.

Eliminating the Medicaid retroactive eligibility period for non-pregnant adults will not impact current budget neutrality. This population is not expected to increase or decrease the annual MMA enrollment; therefore, the MEG1 and MEG2 per member per month costs should remain unchanged for the demonstration, with waiver and without waiver.

# Public Notice Process

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The State conducted a 30-day public comment period from March 21, 2018 to April 19, 2018 to solicit input on the waiver amendment request.

The State notified stakeholders of the public comment period using the following methods:

- Published public notice on March 21, 2018 in the Florida Administrative Register (FAR) in compliance with Chapter 120, Florida Statutes
- Emailed individuals and organizations on the interested stakeholders list
- Posted a provider alert on the Agency's Web site

## Public Notice Materials

The State posted the dates, times, and locations of two public meetings, and a link to this public notice document on the Agency's Web site at:

[http://ahca.myflorida.com/medicaid/Policy\\_and\\_Quality/Policy/federal\\_authorities/federal\\_waivers/mma\\_fed\\_auth.shtml](http://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/mma_fed_auth.shtml)

The State provided this link in the FAR notice and email to interested stakeholders.

## Consultation with Indian Health Programs

The State sent written correspondence to the Indian Health Programs located in Florida to solicit input on the waiver amendment request (Attachment III). The State of Florida does not have any Urban Indian Organizations, but has two federally recognized tribes: the Seminole Tribe and Miccosukee Tribe.

## Public Meetings

The State held two public meetings during the public comment period. Individuals unable to attend the meetings in person could participate via conference call by using the toll-free number provided. During the meetings, the State provided a brief overview of the 1115 MMA Waiver amendment request and allowed time for public comment.

## MMA Amendment Public Meetings

Location	Date	Time
Tampa Agency for Health Care Administration 6800 N. Dale Mabry Highway, Suite 220 Tampa, FL 33614  Conference Line: 1 (888) 419-5570 Participant Code: 571-178-31	March 28, 2018	3:30 pm – 5:00 pm
Tallahassee Agency for Health Care Administration 2727 Mahan Drive, Building 3 Tallahassee, FL 32308  Conference Line: 1 (888) 339-2688 Participant Code: 616-259-66	April 3, 2018	10:00 am – 11:00 am

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting was asked to advise the Agency at least seven days before the workshop/meeting by contacting Kimberly Quinn at (850) 412-4284 or by email at [Kimberly.Quinn@ahca.myflorida.com](mailto:Kimberly.Quinn@ahca.myflorida.com).

Individuals who are hearing or speech impaired could contact the Agency using the Florida Relay Service, 1 (800) 955-8771 (TDD) or 1 (800) 955-8770 (Voice).

### Submitting Written Comments

Written comments on the waiver amendment could be submitted via mail or email with the subject “1115 MMA Amendment – LIP” during the public comment period.

**Mail:** Agency for Health Care Administration  
 Bureau of Medicaid Policy  
 2727 Mahan Drive, MS #20  
 Tallahassee, Florida 32308

**Email:** [FLMedicaidWaivers@ahca.myflorida.com](mailto:FLMedicaidWaivers@ahca.myflorida.com)

## Summary of Public Comments

The following summarizes the public comments received during the 30-day comment period that began March 21, 2018 and ended April 19, 2018. The State considered all comments received in preparing the amendment request.

### **Low Income Pool:**

- The State received comments in support of the inclusion of community behavioral health providers and RPICCs in the LIP.
- The State received comments that the changes to the LIP will positively impact uncompensated care in Florida.
- The State received a comment that the RPICC subgroup should be inclusive of other hospitals providing the same services, and that LIP funding should be allocated based on services rather than a state designation.
- The State received a comment that there should be clear criteria to determine the level of charity care provided by community behavioral health providers eligible to receive LIP funding, and that at present, there is no standardized format similar to the FHURS database used by hospitals to collect this information.
- The State received a comment that as this process moves forward, funds should be available to both central receiving facilities as well as other community-based, not-for-profit mental health and substance abuse providers.

### **Retroactive Eligibility:**

- The State received comments opposing the legislative directive to decrease the retroactive eligibility period.
- The State received comments that elderly individuals and vulnerable populations will be negatively impacted by any changes to the retroactive eligibility period.
- The State received comments that the proposed amendment will increase inefficiencies in the application process and inequality among beneficiaries.
- The State received comments that the Florida Department of Children and Families is unprepared for the changes that will arise based on this decrease of the retroactive eligibility period.

- The State received comments that vulnerable populations will be negatively impacted because the disability process can take months or years, as the application process is complex and time-consuming.
- The State received comments that people are often unable to gather and provide necessary documents during a health crisis, and this process often cannot be resolved until the health crisis has ended.
- The State received comments that Florida’s care system for elderly and disabled Floridians, including safety net hospitals and nursing homes, depend on retroactive eligibility.
- The State received comments that the change in retroactive eligibility will have a severe and negative impact on safety net hospitals.
- The State received comments requesting a detailed research methodology and a comprehensive evaluation process for understanding the impact of the loss of retroactive eligibility.
- The State received comments that uncompensated care will increase.
- The State received comments that an increase in applications with limited information will be submitted with any decrease to the retroactive eligibility period.
- The State received comments that this change will lead to an increase in Medicaid costs.
- The State received comments that elimination of a three month retroactive eligibility period restricts access to Medicaid, does not improve program performance, does not enhance fiscal predictability, and is contradictory to the purpose of an 1115 waiver.
- The State received comments that Florida could save money if it opts to expand coverage through the Medicaid program.
- The State received comments that this change will take away up to \$402, or \$134 per month, from each low-income Medicare beneficiary who qualifies for the Specified Low-Income Medicare Beneficiary or Qualified Individual-1 Medicare Savings Programs.
- The State received comments that elimination of retroactive eligibility does not lower costs, it shifts them to the low income, uninsured, and medical providers.

- The State received comments that the initial date of Medicaid application should be preserved, even if the date falls on a weekend or a holiday.
- The State received comments that the change to retroactive eligibility should exclude the aged, blind, and disabled populations.
- The State received comments that discharge planning from hospitals will be significantly impacted, which could impact patient flow into and out of hospitals.
- The State received comments that retroactive eligibility allows for provider reimbursement during the 90-day period prior to application, which contributes to the financial stability of both providers and their patients.
- The State received comments that Medicaid beneficiaries are more likely to have health illiteracy than any other insured group, and present to the hospital without basic knowledge of Medicaid.
- The State received comments that this amendment will increase the number of people with medical debt, and those with medical debt are more likely to delay or skip care and have difficulty paying other bills.
- The State received comments that the Institutional Care Program has requirements that other Medicaid programs do not have, including a five-year look back, which creates unique challenges for the elderly population.
- The State comments that dual eligibles may not realize Medicare coverage has been exhausted, and therefore may not realize the need to apply for Medicaid coverage until several months have passed.
- The State received a comment that the amendment should address what will happen if the Centers for Medicare & Medicaid Services does not approve the amendment request, as providers and potential Medicaid applicants need advance notice for planning purposes.
- The State received a comment that Section 20 of Ch. 2018-10, Laws of Florida, sunsets on July 1, 2019, and as such, the Agency should consider negotiating with the Centers for Medicare & Medicaid Services, the Legislature, and the Governor to delay the effective date of the waiver request to reduce the negative impacts to potential recipients and providers arising from a short-lived waiver authority.

- The State received a comment that this proposal could significantly decrease access to post-acute care for the elderly and disabled, as there will be insufficient time to file a “complete” Medicaid application and thus far more uncertainty on a final eligibility outcome.
- The State received a comment that by eliminating retroactive eligibility, Florida has increased the chances that our AARP Long-term Care program ranking will decline.
- The State received a comment that parents enrolled in coverage are more likely to have children enrolled in coverage, and parents with coverage are more likely to maintain children’s coverage over time.
- The State received a comment that the proposed change represents discrimination against disabled persons in violation of the Americans with Disabilities Act.

# Attachment I – Federal and State Waiver Authority, Historical Description

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## **Initial 5-Year Period (2006-2011):**

On October 19, 2005, Florida's 1115 Research and Demonstration Waiver named “Medicaid Reform” was approved by CMS. The program was implemented in Broward and Duval counties on July 1, 2006, and expanded to Baker, Clay, and Nassau counties on July 1, 2007.

## **Three-Year Extension Period (2011-2014):**

On December 15, 2011, the Agency received approval from CMS to extend Florida’s 1115 Medicaid Reform Waiver for the period July 1, 2011 through June 30, 2014.

## **MMA Waiver Amendment (2014):**

On June 14, 2013, the Agency received CMS approval to amend the waiver to terminate the Medicaid Reform program, implement the MMA program, and rename the waiver, “Managed Medical Assistance”. The Reform program was terminated on August 1, 2014 with the implementation of the MMA program.

## **Three-Year Waiver Extension (2014-2017):**

On November 27, 2013, the Agency submitted an extension request to extend authority for the 1115 MMA Waiver for an additional three years (July 31, 2014 - June 30, 2017). The Agency received approval for the three-year extension from CMS on July 31, 2014. The effective dates of the current waiver period are July 31, 2014 through June 30, 2017.

## **MMA Waiver Amendment (2015):**

On October 15, 2015, the Agency received approval to:

1. Allow recipients under the age of 21 years who are receiving Prescribed Pediatric Extended Care services and recipients residing in group home facilities licensed under section 393.067, Florida Statutes, to voluntarily enroll in an MMA plan.
2. Enroll newly Medicaid eligible recipients into a managed care plan immediately after their eligibility determination, and to make changes to the auto-assignment criteria.
3. Extend the LIP program through the remainder of the demonstration period ending June 30, 2017.



### **MMA Waiver Amendment (2016):**

On October 12, 2016, the Agency received approval to:

1. Allow the Agency flexibility to contract with one to three vendors under the hemophilia program.
2. Include payments for nursing facility services in the MMA capitation rates for MMA enrollees under the age of 18 years.
3. Allow flexibility for specialty plans to conduct Performance Improvement Projects on topics that have more specific impacts to their enrollees, with Agency approval.

### **MMA Waiver Extension (2016):**

On December 31, 2016, the Agency submitted a request to extend authority for the 1115 MMA Waiver for an additional five years (June 30, 2017 - June 30, 2022). The extension request did not include any substantive programmatic or authority changes.

The Agency received temporary extensions to operate the MMA program from July 1, 2017 through August 4, 2017.

### **Five-Year Extension (2017-2022):**

On August 3, 2017, the Agency received approval to extend authority for the 1115 MMA Waiver for the period of August 3, 2017 through June 30, 2022.

### **MMA Waiver Amendment (2017):**

On December 20, 2017, the Agency received approval to:

- Transition the federal authority to serve individuals enrolled in the 1115 MEDS-AD to the MMA Waiver.
- Establish financial and non-financial eligibility criteria for individuals diagnosed with Acquired Immune Deficiency Syndrome to obtain and maintain coverage for Medicaid benefits without the need for enrollment in the 1915(c) Project AIDS Care (PAC) waiver.

# Attachment II – Waiver Expenditure Authority

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## MANAGED MEDICAL ASSISTANCE SECTION 1115 DEMONSTRATION WAIVER AUTHORITIES

**NUMBER: 11-W-00206/4**

**TITLE: Managed Medical Assistance Program**

**AWARDEE: Agency for Health Care Administration**

All requirements of the Medicaid program expressed in law, regulation and policy statement—and not expressly waived in the Title XIX Waivers list below—shall apply to the demonstration project.

The following waivers are granted under the authority of section 1115(a)(1) of the Social Security Act (“the Act”) to enable the state to continue its Florida Managed Medical Assistance Program section 1115 demonstration consistent with the approved Special Terms and Conditions (STC). The state has acknowledged that it has not asked for, nor has it received, a waiver of Section 1902(a)(2).

These waivers are effective beginning August 1 through June 30, 2022.

### **Title XIX Waivers**

#### **1. Statewideness/Uniformity**

**Section 1902(a)(1)**

To enable Florida to operate the demonstration and provide managed care plans or certain types of managed care plans, including provider service networks, only in certain geographical areas.

#### **2. Amount, Duration, and Scope and Comparability**

**Section 1902(a)(10)(B) and  
1902(a)(17)**

To enable Florida to vary the amount, duration, and scope of services offered to individuals, regardless of eligibility category, based on differing managed care arrangements, or in the absence of managed care arrangements, as long as the benefit package meets certain actuarial benefit equivalency and benefit sufficiency requirements. This waiver does not permit limitation of family planning benefits.

#### **3. Freedom of Choice**

**Section 1902(a)(23)(A)**

To enable Florida to require mandatory enrollment into managed care plans with restricted networks of providers. This does not authorize restricting freedom of choice of family planning providers.

**MANAGED MEDICAL ASSISTANCE SECTION 1115  
DEMONSTRATION  
EXPENDITURE AUTHORITIES**

**NUMBER: 11-W-00206/4**

**TITLE: Managed Medical Assistance Program**

**AWARDEE: Agency for Health Care Administration**

Under the authority of section 1115(a)(2) of the Act, expenditures made by the state for the items identified below, which are not otherwise included as expenditures under section 1903 of the Act, shall, for the period of this demonstration from August 1, 2017, through June 30, 2022, be regarded as expenditures under the state's Title XIX plan.

The following expenditure authorities shall enable Florida to operate the Florida Managed Medical Assistance program section 1115 demonstration.

1. Expenditures for payments to managed care organizations, in which individuals who regain Medicaid eligibility within six months of losing it may be re-enrolled automatically into the last plan in which they were enrolled, notwithstanding the limits on automatic re-enrollment defined in section 1903(m)(2)(H) of the Act.
2. Expenditures made by the state for uncompensated care costs incurred by providers for health care services for the uninsured and/or underinsured.
3. Expenditures for the Program for All Inclusive Care for Children services and the Healthy Start program.
4. Expenditures for services provided to individuals in the MEDS-AD Eligibility Group, as described in STC 19.
5. Expenditures for services provided to individuals in the AIDS CNOM Eligibility Group, as described in STC 20.

# Attachment III – Tribal Notification



RICK SCOTT  
GOVERNOR

JUSTIN M. SENIOR  
SECRETARY

March 21, 2018

Ms. Cassandra Osceola  
Health Director  
Miccosukee Tribe of Indians of Florida  
P. O. Box 440021, Tamiami Station  
Miami, FL 33144

Dear Ms. Osceola:

The purpose of this letter is to inform you that the Agency for Health Care Administration (Agency) is seeking federal authority to amend Florida Medicaid's 1115 Managed Medical Assistance Waiver (Project Number 11-W-00206/4) to:

- Modify the Low Income Pool Special Terms and Conditions to add:
  - Regional Perinatal Intensive Care Centers as an eligible hospital ownership subgroup effective State Fiscal Year (SFY) 2017/18.
  - Community behavioral health providers as a participating provider group effective SFY 2018/19.
- Eliminate the three-month Medicaid retroactive eligibility period for non-pregnant recipients aged 21 years and older (adults) effective July 1, 2018. Eligibility will continue to begin the first day of the month in which a non-pregnant adult applies for Florida Medicaid.

The Agency has scheduled two public meetings to solicit meaningful input on the proposed waiver amendment. The meetings will be held in:

- Tampa, Florida on March 28, 2018 from 3:30 pm – 5:00 pm at the Agency for Health Care Administration, 6800 N. Dale Mabry Highway, Suite 220, Tampa, FL 33614. To participate by phone, please call: 1 (888) 419-5570 and enter the participant passcode: 571-178-31.
- Tallahassee, Florida on April 3, 2018 from 10:00 am – 11:00 am at the Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, FL 32308. To participate by phone, please call: 1 (888) 339-2688 and enter the participant passcode: 616-259-66.

If you would like to make any comments or need additional information, please contact Kimberly Quinn of my staff by phone at (850) 412-4284 or by email at [Kimberly.Quinn@ahca.myflorida.com](mailto:Kimberly.Quinn@ahca.myflorida.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Beth Kidder", is written over a light blue circular stamp.

Beth Kidder  
Deputy Secretary for Medicaid

BK/kq

2727 Mahan Drive • Mail Stop #8  
Tallahassee, FL 32308  
[AHCA.MyFlorida.com](http://AHCA.MyFlorida.com)



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RICK SCOTT  
GOVERNOR

JUSTIN M. SENIOR  
SECRETARY

March 21, 2018

Dr. Paul Isaacs  
Executive Director, Health and Human Services  
Seminole Tribe of Florida  
6365 Taft Street, Suite 2004  
Hollywood, FL 33024

Dear Dr. Isaacs:

The purpose of this letter is to inform you that the Agency for Health Care Administration (Agency) is seeking federal authority to amend Florida Medicaid's 1115 Managed Medical Assistance Waiver (Project Number 11-W-00206/4) to:

- Modify the Low Income Pool Special Terms and Conditions to add:
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- Tallahassee, Florida on April 3, 2018 from 10:00 am – 11:00 am at the Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, FL 32308. To participate by phone, please call: 1 (888) 339-2688 and enter the participant passcode: 616-259-66.

If you would like to make any comments or need additional information, please contact Kimberly Quinn of my staff by phone at (850) 412-4284 or by email at [Kimberly.Quinn@ahca.myflorida.com](mailto:Kimberly.Quinn@ahca.myflorida.com).

Sincerely,

Beth Kidder  
Deputy Secretary for Medicaid

BK/kq

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