



Center for Medicaid and CHIP Services
Children and Adults Health Programs Group

FEB 9 2012

Mr. Justin M. Senior
Deputy Secretary for Medicaid
Florida Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #8
Tallahassee, FL 32308

Dear Mr. Senior:

I am writing in regard to Florida's request to amend its section 1115 Demonstration, as submitted to the Centers for Medicare & Medicaid Services (CMS) on August 1, 2011, which seeks to amend the following three areas: 1) statewide managed care expansion; 2) the imposition of a monthly premium; and 3) charging a copay for non-emergent use of hospital emergency departments. This letter is intended to update you on the status of our review of the State's request.

Under Amendment 2, the State requested to charge a \$10 monthly premium for most Medicaid beneficiaries enrolled in managed care. As CMS has shared verbally with the State, under section 1916A of the Social Security Act (Act), premiums cannot be imposed on non-exempt individuals with family income at or below 150 percent of the Federal poverty level (FPL). Additionally, the imposition of a \$10 premium on Medicaid beneficiaries would result in a violation of the Maintenance of Effort (MOE) requirements established by the Affordable Care Act and codified at sections 1902(a)(74) and 1902(gg) of the Act. Guidance on MOE can be found in the State Medicaid Director Letter #11-001 issued February 25, 2011, available at <https://www.cms.gov/smdl/downloads/SMD11001>.

Under Amendment 3, the State requested authority to assess a \$100 co-pay to all Medicaid eligible Demonstration populations for non-emergent services and care furnished in a hospital emergency department. This co-pay amount also exceeds the allowable cost sharing under either sections 1916 or 1916A of the Act. Under these provisions, cost sharing for individuals at lower income levels cannot exceed nominal levels or, under certain circumstances, twice the nominal level. And, while a State could impose higher copayments for individuals with income above 150 percent of the FPL, the aggregate amount of all cost sharing must not exceed five percent of family income. CMS shares the State's goal of promoting cost-effective use of hospital emergency department services and we will be happy to work with you to consider alternative approaches to meeting this goal.

We are continuing to review the State's request to expand the Demonstration statewide, under Amendment 1, and look forward to working with you on this request. However, for the reasons provided above, CMS will no longer consider Amendments 2 and 3 under active review. We

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appreciate the work the State has put into developing the amendments and will continue to provide technical assistance wherever possible.

We look forward to continuing our work together to ensure the provision of high-quality care in Florida's Medicaid program. If you have any questions please feel free to contact Richard Jensen, Director, Division of State Demonstrations and Waivers within the Children and Adults Health Programs Group at 410-786-6126.

Sincerely,



Victoria Wachino
Director