



May 22, 2018

The Honorable Alex Azar  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Re: Arizona Section 1115 Waiver Amendment Request: Proposal to Waive Prior Quarter Coverage

Dear Secretary Azar:

Thank you for the opportunity to submit comments on Arizona's Section 1115 Waiver Amendment Request: Proposal to Waive Prior Quarter Coverage.

The undersigned organizations represent millions of individuals facing serious, acute and chronic health conditions across the country. Our organizations have a unique perspective on what individuals need to prevent disease, cure illness and manage serious and chronic health conditions. The diversity of our groups and of those we represent enables us to draw upon a wealth of knowledge and expertise and serve as an invaluable resource regarding any decisions affecting the Medicaid program and the people that it serves. We urge the Department of Health and Human Services (HHS) to make the best use of the recommendations, knowledge and experience our patients and organizations offer here.

Our organizations are committed to ensuring that Medicaid provides adequate, affordable and accessible health care coverage. However, we are concerned that Arizona's Waiver Amendment could have harmful implications for individuals with serious, acute, and chronic conditions. We therefore provide HHS with the following comments and recommendations.

#### Waiving Retroactive Eligibility

Retroactive eligibility in Medicaid prevents gaps in coverage, by covering individuals for up to 90 days (or quarter of the year) prior to the month of application, assuming the individual is eligible for Medicaid coverage during that time frame. It is common that individuals are unaware they are eligible for Medicaid until a medical event or diagnosis occurs. Retroactive eligibility allows patients who have been diagnosed with a serious illness, such as cancer or heart disease, to begin treatment without being burdened by medical debt prior to their official eligibility determination.

In the Waiver Amendment, the state of Arizona failed to address in detail how eligibility determinations would be made in a timely manner. The lack of clear timeline on eligibility determinations underscores the need for retroactive eligibility; Arizona residents eligible for Medicaid could face weeks or months waiting for an eligibility determination and lacking healthcare coverage. Patients should not be left to choose between massive medical bills and treating their illness.

Additionally, Medicaid paperwork can be burdensome and often times confusing. A Medicaid enrollee may not have understood or received a notice of Medicaid Renewal and only discovered the coverage lapse when picking up a prescription or going to see their doctor. Without retroactive eligibility, Medicaid enrollees could then face substantial costs at their doctor's office or pharmacy. For example, when Ohio was considering a similar provision in 2016, a consulting firm advised the state that hospitals could accrue as much as \$2.5 billion more in uncompensated care as a result of the waiver.<sup>i</sup>

#### Response to Public Comment

The undersigned organizations are disappointed by Arizona's decision to continue to pursue this Waiver Amendment after receiving over two dozen comments, all opposing the proposal. The unresponsiveness to Arizona citizens on how this proposal would impact the most vulnerable in their state is unacceptable. The state also did not provide any information on how they would mitigate the consequences of the waiver that were explained by the commenters.

Some of the comments at the state level highlighted that Arizona had failed to include a testable hypothesis for the waiver, which is supposed to be a demonstration. The state did add three hypotheses to test: (1) the implementation of the proposal will not adversely affect access to care; (2) the implementation of the proposal will not result in reduced member satisfaction; and (3) the implementation of the proposal will generate cost savings over the term of the waiver. However, of these three hypotheses, only one matches the objectives the state is claiming to test<sup>ii</sup> (containing Medicaid costs). The evaluation of this demonstration waiver should accurately monitor the outcomes it is claiming to improve.

The undersigned organizations urge HHS to reject this proposed waiver amendment. The amendment will not promote patient care and will harm patients with chronic illness. Additionally,

the state has not adequately responded to the public comments it received and does not have a plan to evaluate the objectives it claims to test. Thank you for reviewing our comments.

Sincerely,

American Heart Association  
American Liver Foundation  
American Lung Association  
Cystic Fibrosis Foundation  
Epilepsy Foundation  
Little Mended Hearts  
Leukemia & Lymphoma Society  
Lutheran Services in America  
March of Dimes  
NAMI, National Alliance on Mental Illness  
National Multiple Sclerosis Society  
National Organization for Rare Disorders  
National Patient Advocate Foundation  
National Psoriasis Foundation

CC: The Honorable Seema Verma, Administrator,  
The Centers for Medicare and Medicaid Services

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<sup>i</sup> Virgil Dickson, "Ohio Medicaid waiver could cost hospitals \$2.5 billion", Modern Healthcare, April 22, 2016. (<http://www.modernhealthcare.com/article/20160422/NEWS/160429965>) [see attached]

<sup>ii</sup> Florida is claiming it is testing the following three objectives of the state Medicaid program: "(1) encouraging members to obtain and continuously maintain health coverage, even when healthy; (2) encouraging members to apply for Medicaid without delays to promote continuity of eligibility and enrollment for improved health status; and (3) containing Medicaid costs."

# Modern Healthcare

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## Ohio Medicaid waiver could cost hospitals \$2.5 billion

By [Virgil Dickson](#) | April 22, 2016

Ohio hospitals could lose billions if the CMS approves a Medicaid waiver requested by Gov. John Kasich's administration.

The Republican governor and presidential candidate wants to **move Ohio to a more conservative approach to Medicaid**<sup>[1]</sup> expansion, allowing the program to drop adult beneficiaries who don't pay into a health savings account, regardless of their income.

Another controversial provision would eliminate 90-day retroactive coverage for Medicaid beneficiaries. That could be particularly painful for hospitals, according to Cleveland-based Human Arc, a consulting firm that advises hospitals in the state on spending and eligibility issues. The change could cost hospitals as much as \$2.5 billion over the course of the five-year waiver, the firm estimated.

Under current Ohio Medicaid rules, eligibility begins the day an application is submitted, assuming the applicant is ultimately deemed to qualify for benefits. Providers can also bill for services provided in the preceding three months, assuming the patient met eligibility rules during that time, said John Corlett, a former Ohio Medicaid director and executive director of the Center for Community Solutions, a not-for-profit, nonpartisan think tank.

Under the Healthy Ohio waiver, eligibility would not begin until an application is actually approved for Medicaid and the person enrolls in a managed-care plan and makes a first payment into a health savings account.

This change would mean the program would not pay an estimated 350,000 to 380,000 medical claims, adding up to \$470 million to \$510 million a year

in lost revenue for providers, according to the Human Arc analysis.

The chances that the CMS will go along with the plan are unclear. The agency approved a similar request for **Healthy Indiana Plan 2.0**<sup>[2]</sup>, which is the template for Healthy Ohio. New Hampshire received a conditional one-year waiver to eliminate retroactive eligibility, but the state was required to submit data showing no coverage gap would occur as a result. The state submitted the data in December, but a final decision has not been announced. A spokesperson for New Hampshire's Medicaid agency did not respond to a request for comment.

Arkansas officials have also expressed interest in a retroactive coverage waiver, but HHS Secretary Sylvia Burwell appeared to oppose the idea in a January 2016 letter to the state's Republican governor, Asa Hutchinson.

“Retroactive coverage is especially important when issues with a state's eligibility and enrollment systems lead to unnecessary gaps in coverage,” Burwell said. “We recognize the recent improvements Arkansas has made to its eligibility and enrollment system, but significant additional progress is needed to ensure that all eligible individuals are enrolled in Medicaid in a timely manner.”

Ohio's waiver request is posted for comment. The deadline for responses is May 13. The state wants to launch the new version of Medicaid expansion outlined in the waiver by Jan. 1, 2018.

Tags: **Government**, **Hospitals**, **Medicaid**, **Providers**

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1. <http://www.modernhealthcare.com/article/20160406/NEWS/160409927>
2. <http://www.modernhealthcare.com/article/20150127/NEWS/301279882>

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