



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 state is requesting authority to stop providing retroactive coverage for Medicaid beneficiaries who incur medical costs up to three months before they apply if they were eligible for Medicaid during that three-month period.

The Epilepsy Foundation is the leading national voluntary health organization that speaks on behalf of the at least 3.4 million Americans with epilepsy and seizures. We foster the wellbeing of children and adults affected by seizures through research programs, educational activities, advocacy, and direct services. Epilepsy is a medical condition that produces seizures affecting a variety of mental and physical functions. Approximately 1 in 26 Americans will develop epilepsy at some point in their lifetime. There is not "one size fits all" treatment option for epilepsy, and about a third of people living with epilepsy suffer from uncontrolled or intractable seizures. Uncontrolled seizures can lead to disability, injury, and even death. Around one third of people living with epilepsy rely on Medicaid for their primary or supplemental insurance.

We urge you to reject this proposal because it would create a significant barrier to affordable health care and decrease financial stability for all beneficiaries, and especially for people living with disabilities who need long term services and support. Eliminated retroactive coverage would also harm hospitals and other safety net providers by increasing uncompensated care costs, jeopardizing their financial security. We further believe this proposal would not promote the objectives of the Medicaid program as the proposal is not linked to improvements in health and health outcomes, but rather linked to saving money. This is an impermissible use of the section 1115 authority.¹

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. This is assuming the individual is eligible for Medicaid during that timeframe. It is common that individuals are unaware of their eligibility for Medicaid until a medical event or diagnosis occurs. Retroactive availability eligibility allows patients who have been diagnosed with a serious illness, such as epilepsy, to begin treatment without being burdened by medical debt prior to their official eligibility determination.

In addition to helping individuals get the care they need, retroactive coverage supports the financial stability of hospitals and other safety net providers as it allows them to be reimbursed for care they

¹ United States Court of Appeals, Ninth Circuit, "Beno vs. Shalala," July 1994, <https://openjurist.org/30/f3d/1057/beno-v-shalala>.



have provided during the three-month period, helping them meet their daily operating costs and maintain quality of care. This cost would be otherwise uncompensated without retroactive coverage. 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.²

Providers in Arizona have expressed concerns over the state's request to eliminate retroactive coverage as well, citing its importance to ensuring the financial health of both Medicaid beneficiaries and safety net providers in the state. The Arizona chapter of the American Academy of Pediatrics expressed concern that "this proposed provision will put patients and families at risk of medical debt as well as increased uncompensated care costs for hospitals...this could put hospitals...at risk for cuts or closure potentially leaving entire communities with limited or no access to health care."³

In the absence of retroactive eligibility, Arizona has not addressed 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 seeking Medicaid coverage could face weeks or months of waiting for a determination, all the while lacking healthcare coverage. Individuals should not be left to choose between massive medical bills and treating their illness.

Further, Medicaid paperwork can be burdensome and often confusing for the beneficiary. 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, enrollees could then face substantial costs at their doctor's office or pharmacy.

The Epilepsy Foundation and the Epilepsy Foundation of Arizona urge HHS to reject this proposed waiver amendment. The amendment will not promote patient care and will harm individuals with chronic illnesses like epilepsy, leaving them with significant medical debt in the event of a lapse of coverage. Please do not hesitate to contact Abbey Roudebush, Government Relations Manager, at 301-918-3784 or aroudebush@efa.org with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne Matsumori".

Suzanne Matsumori
Executive Director
Epilepsy Foundation of Arizona

A handwritten signature in black ink, appearing to read "Philip M. Gattone".

Philip M. Gattone, M.Ed.
President & CEO
Epilepsy Foundation

² Virgil Dickson, "Ohio Medicaid waiver could cost hospitals \$2.5 billion", Modern Healthcare, April 22, 2016. (<http://www.modernhealthcare.com/article/20160422/NEWS/160429965>).

³ Arizona Chapter of The American Academy of Pediatrics, Letter to Arizona Health Care Cost Containment System, February 12, 2018, <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/az/az-hccc-pa7.pdf>.