MLRI MASSACHUSETTS LAW REFORM INSTITUTE

40 COURT STREET
SUITE 800
BOSTON, MA 02108

617-357-0700 PHONE
617-357-0777 FAX
WWW.MLRI.ORG

August 24, 2017

The Honorable Thomas Price, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Comments on the MassHealth Demonstration Amendment
Submitted by email to Medicaid.gov

Dear Secretary Price,

These comments are submitted by the undersigned Massachusetts legal services organizations on behalf of our clients who rely on the Massachusetts Medicaid program (MassHealth) for access to health care. We appreciate the opportunity to make these comments expressing our objections to our state Medicaid agency's proposed amendment to curtail Non-emergency Medical Transportation. We also have concerns that the proposed amendment to Provisional Income Eligibility for Adults will adversely affect timely processing unless expressly conditioned on careful monitoring and reporting. We support the third amendment to continue coverage for former foster care children.

The two changes with which we have concerns are in furtherance of a new proposed goal for the demonstration to which we strongly object because it does not further the objectives of the Medicaid Act and the hypothesis which it purports to test is far-fetched at best. The 1115 seeks to add the following goal:

> Goal 6: Ensure the long-term financial sustainability of the MassHealth program through alignment of MassHealth covered services with commercial health insurance (where appropriate) and refinement of provisional eligibility

With respect to the elimination of non-emergency medical transportation, the hypothesis is that reducing benefits in MassHealth will result in slowing the decline in commercial insurance:

> Hypothesis 6A: The waiver's changes to align MassHealth covered services with commercial health insurance (where appropriate) will result in slowing the shift in enrollment from commercial health insurance (as a percentage of the state's population) to MassHealth primary coverage (as a percentage of the state's population) while maintaining overall coverage.

Notably absent from Goal 6 or its evaluation is any assurance that the elimination of NEMT will not reduce access to medically necessary care. Nor does the state's proposal describe how eliminating NEMT will either cause employers to make more affordable insurance offers to CarePlus members or induce more CarePlus members to take up offers of employer insurance. Aligning Medicaid with commercial insurance will simply restrict Medicaid benefits and/or

``

increase out of pocket costs for Medicaid members. Such changes, far from promoting the objectives of the Medicaid Act, defeat the objectives of the Act. As discussed further below, one of the most striking differences between Medicaid beneficiaries and individuals with commercial insurance is the much greater percentage of Medicaid beneficiaries reporting transportation as a barrier to care. Assisting individuals "who cannot afford the costs of medically necessary services" is one of the primary objectives of the Medicaid Act.[1] The state fails to demonstrate how the new proposed Goal 6 will promote the objectives of the Medicaid Act.

Eliminating the assurance of transportation for expansion adults will restrict access to care

MassHealth proposes to eliminate non-emergency medical transportation (NEMT) for adults in MassHealth CarePlus except for travel to substance use disorder services. CarePlus is the alternative benefit plan MassHealth created in 2014 for childless adults newly eligible for Medicaid under the Affordable Care Act. Currently, there are 300,000 adults enrolled in CarePlus. However, the agency has told us that only 13,000 use NEMT for travel to services unrelated to substance use disorders. While we appreciate the continuation of this benefit for travel to substance use services, it is also necessary for other services. Eliminating necessary services does not promote the objectives of the Medicaid Act.

Transportation is a greater access barrier for low-income Medicaid beneficiaries than for the commercially insured

The state's rationale for eliminating NEMT is to better align CarePlus with commercial insurance. However, transportation is a greater access barrier for low-income Medicaid beneficiaries than for the commercially insured. Only six-tenths of one percent of those with private insurance reported that transportation was a barrier to accessing timely primary care treatment, while seven percent of Medicaid beneficiaries did so.[2] Approximately 25 percent of lower-income patients have missed or rescheduled their appointments due to lack of transportation. [3] Because of statistics like these, a January 2016 report by the United States Government Accountability Office concluded that the NEMT benefit "can be an important safety net for enrollees as research has identified the lack of transportation as affecting Medicaid enrollees' access to services."[4]

Non-emergency medical transportation is a necessary and cost effective Medicaid benefit

Non-emergency medical transportation improves health outcomes and in some cases reduces costs. In 2006, the National Academy of Sciences released a report called a "Cost-Benefit

[1] 42 USC 1396-1
[2] P. Cheung, J. Wiler, and et. al., National study of barriers to timely primary care and emergency department utilization among Medicaid beneficiaries, Annals of Emergency Medicine (July 2012), Retrieved from http://www.annemergmed.com/article/S0196-0644(12)00125-4/fulltext
[3] S. Syed, B. Gerber, and L Sharp, Traveling Towards Disease: Transportation Barriers to Health Care Access, Journal of Community Health (Oct. 2013). Retrieved from http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4265215
[4] U.S. Government Accountability Office, Efforts to Exclude Nonemergency Transportation Not Widespread, but Raise Issues for Expanded Coverage (Jan 2016). Retrieved from http://www.gao.gov/assets/680/674674.pdf

``

Analysis of Providing Non-Emergency Medical Transportation."[5] The study looked at 12 specific preventive services and chronic conditions and found the costs of transportation for the target population resulted in reduced health care spending in four conditions, was highly effective in improving morbidity and mortality for six conditions, and moderately effective in the remaining two. In the Massachusetts Medicaid program, a doctor must request prior authorization for a patient to obtain a NEMT in the form of a ride to obtain a covered service either because no public transportation is available or because the patient cannot use public transportation for medical reasons. Thus, the small numbers of CarePlus patients who use NEMT are likely to be just like those in the target population of the study for whom NEMT is most cost effective.

The 1115 amendment request presents no evidence to dispute the research showing that NEMT is both a necessary and cost effective benefit for low-income Medicaid members. For these reasons, we urge the Secretary not to approve the restriction of NEMT in CarePlus.

Eliminating Provisional Income Eligibility for Adults in MassHealth Will Exacerbate Already Unacceptable Delays

Massachusetts is also proposing to change its current practice of providing coverage during a temporary period pending receipt of paper documentation of income with respect to adults.[6] Our concern with this change is how it may affect timely processing of applications. In order to continue providing Medicaid with reasonable promptness and making timely eligibility determinations within 45 days of the submission of an application, the Massachusetts Medicaid program must make improvements to its current policies and procedures, and monitor whether it is still making timely eligibility decisions.

MassHealth adopted the current income verification rules in 2014 in order to align with the income verification rules that apply to subsidized insurance in the our state-based Marketplace (the Connector) and to facilitate operation of our integrated eligibility and enrollment system for all insurance affordability programs. Prior to January 2014, MassHealth required income to be verified prior to determining eligibility for most adults. However, returning to this practice presents new challenges because of changes in the law and the limited capacity of the new eligibility and enrollment system compared both to the legacy system and to most other states' Medicaid programs.

Currently it is taking 45 days for the agency just to process a paper application without accounting for the additional time needed to notify a paper applicant that documents are needed and to allow for a reasonable opportunity for documents to be submitted. These delays are exacerbated by unreasonably long call waiting times, and limited ways for documents to be submitted. MassHealth has only four walk-in centers statewide and none in the population

[5] P. Hughes-Cromwick and R. Wallace, et al., Cost-Benefit Analysis of Providing Non-Emergency Medical Transportation, Transit Cooperative Research Program (Oct. 2005), Retrieved from http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_webdoc_29.pdf.

[6] Under the proposal, provisional eligibility will continue to apply to adults who are pregnant, HIV positive or in treatment for breast or cervical cancer and to children. These groups had been "presumptively eligible" under the terms of the MassHealth demonstration prior to 2014.

``

centers of Boston or Worcester. Further, MassHealth, unlike the majority of state Medicaid programs, has not upgraded its technology to enable people to upload documents to their on-line accounts or otherwise submit documents electronically.[7]

For these reasons, we urge the Secretary not to approve the request to end provisional income eligibility until the state has provided assurances that it will be able to make timely eligibility determinations, and that it has systems in place to monitor and report on timely processing measured from the date of submission of an application to the date of the eligibility decision.

Yours truly,

Victoria Pulos, Health Law Attorney
Massachusetts Law Reform Institute

Nancy Lorenz, Senior Attorney
Greater Boston Legal Services

Susan Fendell, Senior Attorney
Mental Health Legal Advisors Committee

Jay McManus, Executive Director
Children's Law Center of Massachusetts

Linda Landry, Senior Attorney
Disability Law Center

Margaretta Kroeger, Staff Attorney
MetroWest Legal Services

Brian O'Connor, Program Manager
Justice Center of Southeast Massachusetts, LLC

Ethan Horowitz, Managing Director
Northeast Justice Center, LLC

Marion Hohn, Senior Attorney
Central-West Justice Center

[7] Kaiser Commission on Medicaid and the Uninsured, Medicaid and CHIP Eligibility, Enrollment, Renewal, and Cost-Sharing Policies in January 2017, Table 9, "Functions of Online Medicaid Applications for Children, Pregnant Women, Parents, and Expansion Adults, January 2017," and Table 10, "Features of Online Medicaid Accounts, January 2017."