



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

May 7, 2012

Ms. Marilyn Tavenner
Acting Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Room-445-G
Hubert Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Stephen Morris
*Senate President
Kansas Senate
President, NCSL*

Michael P. Adams
*Director, Strategic Planning
Virginia Senate
Staff Chair, NCSL*

William Pound
Executive Director

Attention: CMS-2349-F – Medicaid Program; Eligibility Changes Under the Affordable Care Act of 2010

Dear Acting Administrator Tavenner:

I appreciate this opportunity to make comments on behalf of the National Conference of State Legislatures (NCSL) regarding the final and interim final Patient Protection and Affordable Care Act rule on Medicaid eligibility. The success of the eligibility and enrollment process will in large part determine the overall success of the health insurance exchanges. NCSL supports a number of important changes that were made to the proposed rule. We particularly appreciate the increased flexibility afforded state Medicaid offices with respect to some of the details of determining eligibility. NCSL also supports: (1) the emphasis on safeguarding the personal information of Medicaid applicants, beneficiaries and their families; (2) changes that will permit certain elderly, blind and disabled to enroll for programs that provide long term care services and supports even if they are not determined to be eligible based on their modified adjusted gross income (MAGI).

Timeliness and Performance Standards

NCSL has a few concerns that we would also like to share with you. In general, the concerns fall under the topic of “timeliness and performance standards.” We continue to be concerned about the overall readiness of the actual eligibility systems across the states and the federal policies necessary to make the systems functional by Jan. 1, 2014. This final/interim final rule leaves a number of issues unresolved and references yet other still to be promulgated regulations. It will be extremely difficult for states to establish timeliness and performance standards while the policy platform is still in motion. The lack of coordination on the promulgation of regulations between the U.S. Department of Health and Human Services (HHS) and the Internal Revenue Service (IRS) is unfortunate. Coordination of the regulatory efforts between HHS and the IRS is extremely important. We urge you to establish a working group of HHS and IRS staff and state Medicaid eligibility experts to review some of the issues surrounding non-traditional family/household structures and families with members in more than one state.

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NCSL is also concerned about the application and enforcement of the various existing program integrity initiatives that are currently uncoordinated and burdensome. It is our hope that a concerted effort to streamline and coordinate the Medicaid program integrity initiatives will be undertaken before Jan. 1, 2014. This will strengthen the program integrity effort, save state and federal dollars and be a more effective way of addressing Medicaid fraud, waste and abuse.

Federally-facilitated Health Insurance Exchanges

States need more guidance regarding the federally-facilitated health insurance exchanges and the state-federal partnership exchanges. We urge you to engage in a transparent process with both the legislative and executive branches of state government as the details emerge.

Medicaid Coverage of Incarcerated Individual

Many more incarcerated individuals will become eligible for the limited Medicaid coverage that is available to them in January 2014. While the coverage is limited, many inmates do receive hospital services during their incarceration and those services will be eligible for Medicaid coverage when the Patient Protection and Affordable Care Act makes low-income single, childless adults eligible for coverage. The last official guidance to states on Medicaid coverage for incarcerated individuals was provided to the states on Dec. 12, 1997. We believe this is a perfect time to review and update policy and guidance in this area.

Thank you for your consideration. Please contact me if you have any questions or need additional information. I can be reached by phone at 202-624-8689 or by e-mail at joy.wilson@ncsl.org.

Sincerely,

A handwritten signature in cursive script that reads "Joy Johnson Wilson".

Joy Johnson Wilson
Health Policy Director
National Conference of State Legislatures