

Medicaid Section 1115 Waiver Principles for Child Health CHA Principles

Section 1115 of the Social Security Act allows the Secretary of Health and Human Services (HHS) to approve state Medicaid demonstration projects and to waive statutory Medicaid requirements as necessary to enable states to implement an approved demonstration. The statute instructs the Secretary to approve Section 1115 demonstrations that are “likely to assist in promoting the objectives” of the Medicaid program. Section 1115 demonstration waivers allow states the flexibility to achieve the national objectives of the program in ways that spur innovation in coverage and delivery of care. However, states may also seek to waive important statutory protections that were put in place in acknowledgement of the vulnerability of Medicaid-eligible populations, particularly children.

HHS approval to waive certain aspects of those protections risks eroding advances in children’s access to necessary health care services. In addition, state Medicaid programs often adopt policies implemented in other states. Because of this “ripple effect,” a waiver granted in one state could spread to other states and effectively roll back national standards protecting children’s access to care if provisions are being adopted that undermine existing Medicaid protections.

The Children’s Hospital Association (CHA) believes that waivers should maintain appropriate, affordable coverage for children while fostering innovation and improving quality. Waivers that include changes to the following elements of current law threaten access to care for children enrolled in Medicaid.

- **Waiver of the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) requirement that ensures children receive age appropriate, medically necessary health care services.** This protection ensures that benefits for children, adolescents, and young adults (including 19 and 20 years old) are provided based on medical necessity and a child’s developmental needs rather than using arbitrary limits such as those seen in private insurance coverage. Without the guarantee provided by EPSDT, states may limit benefits provided to children. This would have a negative effect on families’ ability to access care for their children, particularly those with complex or chronic conditions.
- **Waiver of prohibition against imposing premiums, deductibles or other cost sharing for children under age 18 beyond what is allowed in the statute.** Currently, federal law prohibits states from imposing premiums on children with family income below 150 percent of the federal poverty level (FPL). Further, states may impose only nominal cost sharing amounts for children below that threshold. No cost sharing may be imposed for children under age six with family income below 133 percent of the FPL and children ages six to 17 with family income below 100 percent of the FPL. This policy acknowledges that for very low-income families, such as those with children enrolled in Medicaid, even small amounts of cost sharing can impose a barrier on the ability to access care. Cost sharing increases the chance that a family will delay or forgo health care needed by the child, which leads to poorer health outcomes. CHA is open to consideration of waivers that create positive incentives for children and families to engage in healthy behaviors.

- **Waiver of the eligibility policies and procedures that ensure children are able to obtain and maintain coverage without delays or coverage gaps.** It is vital that children have timely access to coverage so they can get the care they need, when they need it. Without this protection, states may roll back eligibility thresholds for Medicaid and the Children’s Health Insurance Program (CHIP), potentially reducing the number of children covered by those programs. Additionally, states would be able to impose new administrative restrictions on enrollment or other enrollment barriers that would make it more difficult for children to become or stay enrolled in Medicaid or CHIP. This could include policies such as waiving retroactive eligibility, imposing lock-out periods, or rolling back the maintenance of effort protection for children’s coverage.
- **Imposition of a state-specific global cap on federal Medicaid spending that impacts eligibility, benefits and cost sharing protections for children.** Under this approach, which is similar to a block grant, a state would agree to accept a predetermined limit on federal funding for a certain period of time. In exchange, the state would negotiate flexibility to manage its program in the form of broad waivers of federal requirements in areas such as benefits, out of pocket costs and eligibility. Further, as a state approaches its spending cap, it is more likely to request additional waivers in an attempt to constrain costs. If the state cap is exceeded, significant cuts could be made that impact children’s eligibility, benefits and cost sharing without protections required as part of the waiver.
- **Waivers that impede children’s access to appropriate pediatric providers for all levels of medical complexity, even if that hospital is in another state.** Children must have timely access to all covered services to which they are eligible under EPSDT. They must have access to the full range of pediatric primary and specialty providers with the capacity and expertise to care for sick children of all ages. This includes one or more pediatric hospitals that are in the geographic area and maintain comprehensive pediatric specialty services. Proposals that could force Medicaid recipients into receiving care from hospitals that do not have the experience or expertise to treat children with serious, complex or chronic conditions could have a negative impact on their access to medically necessary care. Examples include proposals that require children to receive care from in-state adult hospitals or other “local” hospitals, because an appropriate pediatric hospital is not available in the immediate geographic area.