



October 31, 2014

**Via Electronic Submission**

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**Re: NH Health Protection Program – Comments on Draft Premium Assistance Section 1115 Demonstration Waiver Application**

Dear Mr. Meyers:

NH Voices for Health (VOICES) is pleased to submit these Comments concerning the draft Premium Assistance Section 1115 Demonstration Waiver Application. We respectfully request that you consider this formal input alongside and in addition to the Questions that we submitted to you on October 20, 2014.

VOICES is a non-partisan, statewide network of organizations and individuals allied in the commitment to quality affordable health care and coverage for residents of New Hampshire, and representing more than 380,000 members and constituents across the Granite State.

We thank the NH Department of Health and Human Services (DHHS / Department) and the NH Insurance Department (NHID) for your diligent and successful efforts to implement expanded Medicaid via the NH Health Protection Program (NHHPP).

With more than 21,000 New Hampshire residents already enrolled in the NHHPP since August 15, this expansion of health coverage is a pragmatic and sensible step toward:

- Access to essential health services for hardworking, lower-income Granite Staters;
- Reductions in uncompensated care for health care providers;
- Reduced burden on a business community that, with health care cost-shifting, has been faced with rising health coverage expenses; and, as a result,
- A healthier workforce, fortified health system, and strengthened state economy.

We have a handful of concerns and suggestions for your consideration regarding the proposed Premium Assistance Program (PAP) Waiver for the NH Health Protection Program.

1. *Cost Sharing Plan.*

We thank the Department for proposing a plan that will exempt PAP enrollees with incomes below 100% of the Federal Poverty Level (FPL) from cost-sharing. However, we are concerned about the proposed cost-sharing / copay framework for persons with incomes at 100% to 138% of FPL.

There is a rich body of research demonstrating that copays, even in relatively small amounts, discourage lower-income people from accessing the health care they need.<sup>1</sup> The proposed Premium Assistance Program copays risk significant financial strain for persons who have little, if any, disposable income to spend on health services.

Studies raise additional concerns for low-income individuals with chronic conditions or other significant health care needs.<sup>2</sup> Small and moderate copays add up quickly when multiple medications, specialists and/or intensive care are needed.<sup>3</sup> Due to cost-sharing, populations with otherwise manageable chronic illnesses are more likely to delay or avoid necessary care, with findings that indicate negative effects on health outcomes.<sup>4</sup>

While we understand that the copays proposed by the draft Waiver are within the rubric of what is permitted by federal Medicaid law – weighing the potential risk of enhanced barriers to access, increased unmet needs, and worsened health outcomes – we encourage DHHS and NHID to explore available avenues for reducing or eliminating them.

### *2. Proposed Waiver of Medicaid's 90-Day Retroactive Coverage Requirement.*

The draft Waiver application proposes that PAP coverage begin on the enrollee's date of application (or on January 1, 2016, whichever is later). We remain concerned that 'date of application' is a term that is undefined in the draft Waiver request.

In any event, it is sound public policy to ensure that NHHPP Premium Assistance Program enrollees retain this important retroactive protection. The retroactive coverage period in Medicaid law avoids unnecessary medical debt, reduces uncompensated care costs, and alleviates financial burden on patients as well as providers.

Retroactive coverage also serves as an incentive for provider participation in the NHHPP, helping to ensure sufficient provider engagement for required network adequacy and patients' timely access to care.

### *3. Proposed Waiver of Medicaid's 24-Hour Prior Authorization Requirement for Prescription Drugs.*

For PAP enrollees, the draft Waiver application proposes to replace Medicaid's 24-hour prior authorization requirement for prescription drugs with a 72-hour prior authorization standard. The draft application also indicates that 'a 72-hour supply of the requested medication will be provided in the event of an emergency'. We remain very concerned that the draft application does not define 'emergency' in this context.

In New Hampshire's Medicaid Care Management Program, prior authorization has been an acknowledged and ongoing trouble spot.

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<sup>1</sup> "Premiums and Cost-Sharing in Medicaid: A Review of Research Findings." Kaiser Commission on Medicaid and the Uninsured, February 2013.

<sup>2</sup> Newhouse, Joseph P. and the Insurance Experiment Group. *Free For All? Lessons from the RAND Health Insurance Experiment*. RAND, 1993.

<sup>3</sup> LeCouteur, Gene et al. "The Impact of Medicaid Reductions in Oregon: Focus Group Insights". Kaiser Commission on Medicaid and the Uninsured, 2004.

<sup>4</sup> Tamblyn R, et al. "Adverse Events Associated With Prescription Drug Cost- Sharing Among Poor and Elderly Persons." *Journal of the American Medical Association*. Vol. 285(4), Jan 2001.

In this instance, for PAP patients who may experience a significant health care need or needs at a given time, we are concerned that a 72-hour prior authorization period can spell hazard for patient health.

As a result, and until there is some workable and effective definition of 'emergency' in this context, we have no choice but to oppose this proposed Waiver provision.

#### 4. *QHP Health Care Provider Network Adequacy and MCO QHP Auto-Assignment.*

In light of New Hampshire's first-year Marketplace experience of Anthem's limited health care provider network, we are concerned about how DHHS and NHID will ensure that certified QHPs (qualified health plans) provide Premium Assistance Program enrollees with access to care that is comparable to the access available to the general population in the enrollee's geographic area, as required by federal Medicaid law<sup>5</sup>.

We generally support and appreciate the QHP auto-assignment provisions in the draft Waiver application, and we are grateful for the provision that provides PAP enrollees who have been auto-assigned to a QHP with sixty (60) days to select a different QHP, if desired.

However, from an enrollee and provider network adequacy perspective, we are concerned about an unforeseen consequence of auto-assignment as it relates to New Hampshire's Medicaid managed care organizations (MCOs).

The NHHPP authorizing statute and draft Waiver application provide that when a person is determined to be PAP eligible and is a Bridge Program enrollee, if his or her MCO is offering a certified QHP, the enrollee will be auto-assigned to the QHP offered by his or her MCO.

We understand and appreciate that the intention of this provision is to ensure that individuals currently enrolled in the Bridge Program do not experience a gap in coverage and care, but the reality is that MCO QHP auto-assignment could have the opposite effect.

Because the network adequacy standards for private insurance and the Marketplace are different than they are for Medicaid, and because the economics of private market provider networks are different than they are for Medicaid, either or both of the MCOs may offer certified QHPs with health care provider networks that are more limited than their Medicaid managed care networks.

For example, if one or both MCOs offer certified QHPs with health care provider networks that resemble Anthem's current Marketplace network, there is genuine risk that Bridge Program enrollees could be auto-enrolled in an MCO-offered QHP that does not include their health care provider/s at all.

To address this concern, VOICES has two alternative recommendations. We suggest that the Waiver require either:

- That, in order for a Medicaid Bridge Program enrollee to be auto-assigned to the QHP offered by their MCO, the MCO-offered QHP *must* have a health care provider network serving the enrollee's geographic area; or

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<sup>5</sup> 42 U.S.C. § 1396a(a)(30)(A)

- That the notice of auto-assignment be provided to Bridge Program enrollees at least sixty (60) days in advance of January 1, 2016 so that, in the event of provider network folly, the enrollee will have sixty (60) days to select and enroll in a different certified QHP for PAP coverage that begins on January 1, 2016.

5. *Waiver Timeline.*

We respect and appreciate that the NH Health Protection Program is scheduled to sunset at the end of calendar year 2016 unless it is extended / reauthorized by the Legislature and Governor. As a result, the draft application proposes a one-year timeline for the Waiver.

We suggest that it would be more sensible and pragmatic to propose a 3-year Waiver timeframe, with a simple and straightforward circuit-breaker provision expressing that the Waiver will end in the event that the NHHPP is not reauthorized by legislative enactment.

There are three reasons for this suggestion: government efficiency; budget neutrality; and proof of the Waiver hypotheses.

First, in the event that the NH Health Protection Program is reauthorized, and with only a one-year Waiver, the Department would be required to expend the time, energy, and effort needed to pursue and secure a Section 1115 Waiver renewal with CMS. Given the availability of an alternative and workable circuit-breaker provision, at a time when government efficiency and cost-effectiveness are paramount, requiring such effort would not appear to be the most prudent option.

Second, since there are and will be start-up costs associated with getting a successful Premium Assistance Program off the ground in the first year, a one-year Waiver appears less likely to achieve the 'budget neutrality' required by federal law than a three-year Waiver, which can and would propose to spread the Program's costs and savings out over time.

And third, one year appears likely to be an insufficient time period to gather the needed and comprehensive data required to prove the proposed Waiver's thoughtful and well-crafted Demonstration hypotheses for the Premium Assistance Program.

We thank the Department and NHID for the opportunity to submit these Comments on the draft Section 1115 Waiver Application. We look forward to working together to ensure the successful implementation of the Premium Assistance Program and the continued success of the NH Health Protection Program. If you have any questions, please do not hesitate to contact me at 603.491.1924 or [Tom@NHVoicesforHealth.org](mailto:Tom@NHVoicesforHealth.org).

Sincerely,



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Policy Consultant