STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

October 24, 2017

Mr. Eric D. Hargan
Acting Secretary and Deputy Secretary
Office for the Secretary of the Department of Health and Human Services
The Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Acting Secretary Hargan:

I have the privilege of submitting the State of New Hampshire's application for amendment to the Special Terms and Conditions for the "New Hampshire Health Protection Program Premium Assistance" 1115 Demonstration (Project #11-W-00298/1), in strict accordance with the provision adopted by the legislature in Section 219 of HB 517, to promote work opportunities for the Health Protection Program population.

New Hampshire continuously seeks to identify areas in which the program can be enhanced taking into consideration input from the State's federal partners at CMS, members, providers, and other key stakeholders, to encourage individual responsibility and ensure program sustainability.

The State seeks approval to empower individuals in our Premium Assistance Program to improve their health by taking an active role in engaging in their communities and by working to gain the skills necessary for long term independence and success. The attached amendment is designed to provide dignity to individuals as they move towards self-reliability, accountability, and ultimately independence from public assistance.

The completed application fulfills all public notice and transparency requirements established by federal law.

The State of New Hampshire appreciates your consideration of this amendment request and looks forward to working with CMS to accomplish these changes. The achievements of this program thus far would not have been possible without the guidance and support of CMS. New Hampshire continues to value its partnership with CMS in joint efforts to transform the state's healthcare system to improve the lives of our citizens.

Sincerely,

Christopher T. Sununu
Governor

107 North Main Street, State House - Rm 208, Concord, New Hampshire 03301
Telephone (603) 271-2121 • FAX (603) 271-7640
Website: http://www.governor.nh.gov/ • Email: governorsununu@nh.gov
TDD Access: Relay NH 1-800-735-2964

Attachment

cc: Mr. Brian Neale, Director & Deputy Administrator, Center for Medicaid & CHIP Services
Ms. Angela D. Garner, Director, Division of System Reform Demonstrations
Mr. Richard McGreal, Associate Regional Administrator, CMS Boston Regional Office
Ms. Jennifer Kostesich, Project Office, Division of Medicaid Expansion Demonstrations
The Honorable Chuck Morse, NH Senate
The Honorable Shawn N. Jasper, NH House
Commissioner Jeffrey A. Meyers, NH Department of Health and Human Services

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Section 1115 Demonstration Amendment

New Hampshire Health Protection Program
Premium Assistance
Project #11-W-00298/1

State of New Hampshire
Department of Health and Human Services

October 20, 2017

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Section I – Introduction

New Hampshire is submitting this application for a Premium Assistance Demonstration Waiver amendment, in accordance with House Bill 517 (Chapter 156, Laws of 2017) which became effective on July 1, 2017. The purpose of the amendment is to obtain approval of a work requirement for the New Hampshire Health Protection population, as a condition of eligibility for the program in strict accordance with the provision adopted by the legislature in Section 219 of HB 517.

The New Hampshire Health Protection Program instituted: (1) a mandatory Health Insurance Premium Payment Program (HIPP) for individuals with access to cost-effective employer-sponsored insurance[1]; (2) a bridge program to cover the new adult group in Medicaid managed care plans through December 31, 2015; and (3) a mandatory individual qualified health plan (QHP) premium assistance program (the "Premium Assistance Program") beginning on January 1, 2016.

The Premium Assistance Program was designed to reduce coverage disruptions for individuals moving between Medicaid and the Marketplace due to changes in income, offer comparable provider access, enable higher provider payments for covered services in order to ensure access, encourage more cross-participation by plans in Medicaid and the Marketplace, and achieve cost reductions due to greater competition.

On March 4, 2015, the Centers for Medicare and Medicaid Services (CMS) approved New Hampshire's application for a one-year Section 1115(a) Medicaid Research and Demonstration Waiver entitled, "New Hampshire Health Protection Program (NHHPP) Premium Assistance" (Project #11-W-100298/1), in accordance with section 1115(a) of the Social Security Act (the Act). The demonstration became effective on January 1, 2016. Its continuation beyond December 31, 2016 and through December 31, 2018 was contingent upon the reauthorization of the program by the New Hampshire legislature. Pursuant to NH RSA 126-A-5, XXIII-XXV, the demonstration was scheduled to sunset on December 31, 2016 unless the New Hampshire legislature reauthorized the program to continue.

On April 5, 2016, the New Hampshire Legislature reauthorized the New Hampshire Health Protection Program through December 31, 2018. The New Hampshire Legislature enacted this legislation to continue coverage of those individuals described under section 1902(a)(10)(A)(i)(VIII).

As of August 1, 2017, the New Hampshire Health Protection Program provided coverage to 51,924 Granite Staters – 41,392 of whom were enrolled in the Premium Assistance Program and receiving coverage through four commercial insurance carriers offering Qualified Health Plans (QHPs) in New Hampshire's federally facilitated Marketplace.[2] Another 7,093 members - those that are medically frail or may otherwise opt-out of the Premium Assistance Program - were served by the state's two Medicaid managed care

[1] The mandatory nature of applying for HIPP was repealed through a budget bill in September of 2015. Voluntary HIPP participants continue to be excluded from the demonstration.

[2] The four carriers are: Ambetter by NH Healthy Families, Anthem BlueCross BlueShield of New Hampshire, Harvard Pilgrim Health Care, and Minuteman Health Incorporated.

organizations (MCOs), WellSense Health Plan and NH Healthy Families. The remaining 3,439 participants were in fee-for-service during their plan selection window.

Budget Trailer Bill HB517 Seeks Work Activities as a Condition of Eligibility

On June 28, 2017, New Hampshire Governor Christopher Sununu signed HB 517 (Chapter 156, Laws of 2017), the trailer bill to the biennial budget for SFY 19-SFY20 for the State of New Hampshire, effective July 1, 2017. HB 517 includes a provision that requires the Department of Health and Human Services to seek a waiver or state plan amendment from the Centers for Medicare and Medicaid Services in order to establish certain work requirements as conditions of eligibility in the New Hampshire Health Protection Program. Any waiver or state plan amendment must be in place by April 30, 2018. [3]

Pursuant to Chapter 156 of Session laws of 2017, New Hampshire is seeking to amend the New Hampshire Health Protection Program Premium Assistance 1115 Demonstration to promote work opportunities for the New Hampshire Health Protection Program population who are not working by aligning work requirements with eligibility for the New Hampshire Health Protection Program. New Hampshire seeks to be the first state to win CMS approval for covering unemployed, able-bodied newly eligible adults who are engaging in at least 20 hours per week of one or a combination of specific employment and training activities detailed in Section IV of the waiver amendment.

There are no proposed changes to enrollment, benefits, enrollee rights or other comparable program elements. The requested approval date of this amendment is no later than April 30, 2018.

The legislative directive for the work requirement is set forth in Section IV of the waiver amendment.

Section II- Public Process

Pursuant to the New Hampshire Health Protection Program Premium Assistance (Project #11-W-00298/1) special terms and conditions (STCs) the following provides an explanation of the public process used by the state to reach a decision regarding the requested amendment.

Per STC 16, regarding public notice, tribal consultation and consultation with interested parties, the State must comply with the State Notice Procedures set forth in 59 Fed. Reg. 49249 (September 27, 1994). New Hampshire is not required to comply with tribal consultation requirements in Section 1902(a)(73) of the Act as there are no federally recognized Indian tribes in New Hampshire.

[3] While the reauthorizing legislation in 2016 instituted a severability provision, HB 517 (Chapter 156, Laws of 2017) does not have a severability provision and coverage under §1902(a)(10)(A)(i)(VIII) is scheduled to sunset on December 31, 2018, unless reauthorized by the NH Legislature.

Public Notice

On August 30, 2017, the Department of Health and Human Services released a draft waiver amendment for the New Hampshire Health Protection Program Premium Assistance Demonstration Waiver (Project # 11-W -00298/1). This release was preceded by the development of a publicly accessible web page, an email address for public input, and an announcement of two public hearings, along with a United States Postal Service address, to provide for remote and in-person public comment to the proposed amendment. Please see Appendix A. The Department held a supplementary third public hearing on October 3, 2017, providing email notification to stakeholders and public notice on the Department's website. The Department accepted public comment until midnight on October 3, 2017.

Please see web page at http://www.dhhs.state.nh.us/pap-1115-waiver/index/htm. Email address is NHPremiumAssistanceAmendment@dhhs.nh.gov. The United States Postal Services address is Department of Health and Human Services, Office of Medicaid and Business Policy, 129 Pleasant Street, Brown Building, Concord, NH 03301, Attn: Dawn Landry.

Responses to Comments on the draft waiver amendment for the New Hampshire Health Protection Program Premium Assistance (Project #11-W-00298/1):

Comment #1:
The majority of commenters noted that the NH Health Protection Program (NHHPP) has provided valuable health care coverage to many NH citizens, including those with chronic health conditions, behavioral health challenges and substance use disorders and voiced support for continuation of the program.

Response #1:
The Department appreciates this feedback.

Comment #2:
Many commenters asked how the Department will manage the administrative burden and operationalize the processes for implementing and monitoring the work requirements, including how exemptions will be managed.

Response #2:
The Department appreciates this feedback and is exploring all available avenues to operationalize the work requirements to comply with the requirements of HB 517.

Comment #3:
Will NHHPP enrollees who have self-attested to Medical Frailty automatically be given an exemption for the work requirements?

Response #3:
NHHPP enrollees who have self-attested to being Medical Frail will, in order to be exempted from the requirements, need to obtain certification from one of the medical professionals identified in the statute using the form provided by the Department.

Comment #4:
One commenter expressed concern that parent or caretakers of dependent children over the age of

6, particularly those living in rural areas, struggle to find affordable childcare which negatively impacts their ability to find and maintain employment.

Response #4:
The Department appreciates this observation.

Comment #5:
A number of commenters noted the potential for those who are unable to meet the requirements losing their health care coverage, resulting in worsening of health conditions and increasing the incidence of uncompensated care.

Response #5:
The Department appreciates this observation.

Comment #6:
A number of commenters requested that the Department develop Administrative Rules that specify the processes for applying for an exemption, the timeframes for DHHS decision making and timelines for the length of approved exemptions.

Response #6:
The Department will take these suggestions under consideration during the rulemaking process.

Comment #7:
Several commenters suggested that enrollees with specific medical conditions be made exempt from the work requirement and from the requirement to request an exemption. Another suggested that enrollees who meet the criteria for exemption be allowed to self-attest versus producing documentation from their health care provider.

Response #7:
The Department appreciates this feedback. This is an operational detail the Department could consider.

Comment #8:
A number of commenters expressed concern that the work requirements, particularly when a person reaches 30 hours of work per week, could negatively impact an enrollee's financial eligibility for NHHPP and result in loss of health care coverage yet not yield sufficient income for the enrollee to purchase commercial health care coverage.

Response #8:
The Department appreciates this feedback and will explore this question more fully.

Comment #9:
One commenter noted that the administrative cost for the state to administer the requirements will result in increased expense for the NHHP.

Response #9:
The Department appreciates this concern.

Comment #10:
One commenter noted that the work requirements of HB 517 differ from those already in place for the TANF and SNAP programs.

Response #10:
The Department appreciates this feedback and will explore this more fully.

Comment #11:
Several commenters expressed the opinion that work requirements are not consistent with the purposes of the Medicaid program and one questioned the Department's authority to impose work requirements under the 1115 Waiver.

Response #11:
The Department appreciates these observations. The purpose of requesting approval from the Centers for Medicare and Medicaid Services for the work requirements waiver amendment is to determine their appropriateness under the Medicaid program.

Comment #12:
Several commenters voiced opposition to the work requirements, describing them as punitive, ill-advised, counterproductive and adding to the inaccurate stereotype that Medicaid enrollees do not want to work.

Response #12:
Thank you for commenting on the Department's waiver amendment.

Comment #13:
Many comments expressed concern that the work requirements will create a barrier to access for enrollees with opioid addiction.

Response #13:
The Department appreciates this observation.

Comment #14:
Several commenters asked if the work requirements amendment would negatively affect the Waiver's budget neutrality.

Response #14:
There is no negative impact on the waiver's budget neutrality. Please see Appendix C.

Comment #15:
One commenter asked if the Department has completed an assessment to determine how many NHHPP enrollees currently meet the proposed work requirements and how many meet criteria for an exemption.

Response #15:
This is an operational detail the Department is working on.

Comment #16:
Many commenters observed that enrollees who have unmanaged health conditions, substance use disorders or behavioral health conditions are unable to find and maintain employment as a result of these conditions and that losing their health care coverages would serve to exacerbate their health conditions and their prospects for long term employment.

Response #16:
The Department appreciates this observation.

Comment #17:
A number of commenters posited that enrollees with the lowest incomes, living in rural areas and with behavioral health or substance use disorders would be disproportionately affected by the work requirements.

Comment #17:
The Department appreciates this observation.

Comment #18:
One commenter asked if the work requirements applied only to individuals in the Premium Assistance Program.

Response #18:
The Department believes the intent of the language in HB517 is that the work requirements apply to all individuals who are determined eligible under the New Hampshire Health Protection Program as defined in section 1902(a)(10)(A)(i)(VIII).

Comment #19:
One commenter expressed the opinion that the Department should seek a waiver to use Temporary Assistance to Needy Families (TANF) funds to assist with paying for work-related activities, such as on-the-job training.

Response #19:
The Department appreciates this observation.

Section III – Data Analysis

Comparative Analysis

Pursuant to the New Hampshire Health Protection Program Premium Assistance (Project #11-W-00298/1) special terms and conditions (STCs number 7 entitled Amendment Process), the following will provide a data analysis which identifies the specific "with waiver" impact of the proposed amendment on the current budget neutrality agreement. The analysis will include total computable "with waiver" and "without waiver" status on both a summary and detailed level through the current approval period using the most recent actual expenditures, as well as summary and detail projections of the change in the "with waiver" expenditure total as a result of the proposed amendment, which isolates (by Eligibility Group) the impact of the amendment.

For details, please see the Amended 1115 Budget Neutrality Projections dated October 11, 2017 included in Appendix C.

CHIP Allotment

Pursuant to the New Hampshire Health Protection Program Premium Assistance (Project #11-W-00298/1) special terms and conditions (STCs), the following provides an up-to-date CHIP allotment neutrality worksheet.

Not applicable as the CHIP population is not covered under the New Hampshire Health Protection Program Premium Assistance.

Section IV – Description of Amendment

Pursuant to the New Hampshire Health Protection Program Premium Assistance (Project #11-W-000298/1) special terms and conditions (STCs), the following provides a detailed description of the amendment including impact on beneficiaries, with sufficient supporting documentation and data supporting the evaluation hypothesis as detailed in the evaluation design.

New Hampshire Health Protection Work Promotion and Personal Responsibility

In accordance with the requirements of HB517, 2017 Laws Chapter 156:219, the Department seeks a waiver that shall require as follows:

(1) Newly eligible adults who are unemployed shall be eligible to receive benefits under RSA 126-A:5 XXIV-XXV, if the State finds that the individual is engaging in at least 20 hours per week upon application of benefits, 25 hours per week after receiving 12 months of benefits over the lifetime of the applicant and 30 hours per week after receiving 24 months of benefits over the lifetime of the applicant of one or a combination of the following activities:

(A) Unsubsidized employment.

(B) Subsidized private sector employment.

(C) Subsidized public sector employment.

(D) Work experience, including work associated with the refurbishing of public publicly assisted housing, if sufficient private sector employment is not available.

(E) On-the-job training.

(F) Job search and job readiness assistance.

(G) Vocational educational training not to exceed 12 months with respect to any individual.

(H) Job skills training directly related to employment.

(I) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency.

(J) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.

(2) If an individual in a family receiving benefits under this subparagraph refuses to engage in work required in accordance with subparagraph (1) above, the assistance shall be terminated. The commissioner of the department of health and human services shall adopt rules under RSA 541-A, with approval of the governor and the fiscal committee of the general court, to determine good cause and other exceptions to termination.

(3) These requirements shall only apply to those considered, abled-bodied adults as defined in section 1902(a)(10)(A)(i)(VIII) of the Social Security Act of 1935, as amended, 42 U.S.C. section 1396a(a)(10)(A)(i). In this subparagraph, "childless" means an adult who does not live with a dependent child which includes a child under 18 years of age or under 20 years of age if the child is a full-time student in a secondary school or the equivalent.

(4) This subparagraph shall not apply to:

(A) A person who is temporarily unable to participate in the requirements under subparagraph (1) above due to illness or incapacity as certified by a licensed physician, an advanced practice registered nurse (APRN), a licensed behavioral health professional, a licensed physician assistant, or a board-certified psychologist. The physician, APRN, licensed behavioral health professional, licensed physician assistant, or psychologist shall certify, on a form provided by the department, the duration and limitations of the disability.

(B) A person participating in a state-certified drug court program, as certified by the administrative office of the superior court.

(C) A parent or caretaker as identified in RSA 167:82, II(g) where the required care is considered necessary by a licensed physician, APRN, board-certified psychologist, physician assistant, or licensed behavioral health professional who shall certify the duration that such care is required.

(D) A parent or caretaker of a dependent child under 6 years of age.

New Hampshire seeks to encourage unemployed and underemployed adults to proceed to full employment by requiring them to become connected with job training or other work related activities while they look for full-time employment or obtain full-time employment. Waivers are intended to grant states flexibility to expand Medicaid in a way that recognizes local considerations and conditions. The poverty facing these residents is an important state issue. It is in New Hampshire's economic and financial interest to facilitate sustained employment or a return to sustained employment for as many participants as possible. Gaining financial stability will enable some participants to mitigate negative environmental factors and economic factors that can contribute to poor health. Putting participants on the path to attaining financial stability and moving out of poverty is a component of a long-term investment New Hampshire seeks to make in its vulnerable citizens. Ultimately, New Hampshire hopes to help residents graduate from safety net programs and attain or return a financially stable life. This trajectory provides flexibility to the state in future years to focus tax payer dollars on other vitally needed services and to promote prosperity and well-being among its citizens.

Section V – Evaluation Design

Pursuant to the New Hampshire Health Protection Program Premium Assistance (Project #11-W-00298/1) special terms and conditions (STCs), the following provides a description of how the evaluation design will be modified to incorporate the amendment provisions.

The State is amending "PAP Waiver Goal" number five (5) titled "Improve Health Outcomes and Increase Personal Accountability and Responsibility." The demonstration will, with this amendment, evaluate whether conditioning eligibility on participation in work activities encourages appropriate utilization and improve health outcomes. The State will work closely with the evaluation vendor to determine specific design evaluation modifications which will be inclusive of an analysis of the correlation between the named activities and improved mental and physical health.

APPENDIX A

Notice of Amendment to Demonstration Authority

Notice is hereby given that the New Hampshire Department of Health and Human Services (DHHS) seeks to amend its Section 1115(a) Research and Demonstration Waiver, #11-W-100298/1 entitled, the New Hampshire Health Protection Program (NHHPP) Premium Assistance, with such amendment to be in place by April 30, 2018.

Summary of Demonstration

Under the NHHPP Premium Assistance demonstration, New Hampshire uses premium assistance to support the purchase of health insurance coverage for beneficiaries eligible under the new adult group provided via certain qualified health plans (QHPs) doing business in the individual market through the Marketplace. The demonstration affects individuals in the new adult group covered under Title XIX of the Social Security Act who are adults from age 19 up to and including age 64 with incomes up to and including 133 percent of the federal poverty level (FPL) who are neither enrolled in (nor eligible for) Medicare or enrolled in the state's Health Insurance Premium Payment (HIPP) program.

Proposed Amendment
The proposed amendment seeks to effect the following modification:

- Modify eligibility to require that newly eligibility adults who are unemployed be eligible to receive benefits if the Department of Health and Human Services finds that the individual is engaging in at least 20 hours per week upon application of benefits, 25 hours per week after receiving 12 months of benefits over the lifetime of the applicant and 30 hours per week after receiving 24 months of benefits over the lifetime of the applicant or a combination of other clearly outlined activities.

WAIVER & EXPENDITURE AUTHORITIES

Existing waiver and expenditure authorities will be not modified.

Opportunity for Public Input

The complete version of the current draft of the Demonstration application is available for public review at http://www.dhhs.nh.gov/pap-1115-waiver/index.htm. Public comments may be submitted until midnight on September 29, 2017. Comments may be submitted by email to NHPremiumAssistanceAmendment@dhhs.nh.gov. or by regular mail to Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301-3857. Comments should be addressed to Dawn Landry.

REVIEW OF DOCUMENTS & SUBMISSION OF DOCUMENTS

This notice, waiver documents, and information about the New Hampshire Health Protection Program (NHHPP) Premium Assistance Demonstration are available at: http://www.dhhs.nh.gov/pap-1115-waiver/index.htm. To reach all stakeholders, non-electronic copies of all the aforementioned documents are available by contacting the Department of Health and Human Services, Dawn Landry.

The State will host two public hearings during the public comment period.

September 14, 2017 1:00 – 2:30
Manchester Health Department
1528 Elm St
Manchester, NH 03010

September 21, 2017 11:00 – 12:30
New Hampshire Department of Health and Human Services
Brown Auditorium
129 Pleasant St,
Concord, NH 03301

New Hampshire Public Notices
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Wednesday, August 30, 2017

NOTICE OF AMENDMENT TO DEMONSTRATION AUTHORITY

Notice of Amendment to Demonstration Authority Notice is hereby given that the New Hampshire Department of Health and Human Services (DHHS) seeks to amend its Section 1115(a) Research and Demonstration Waiver, #11-W-00298/1 entitled, the New Hampshire Health Protection Program (NHHPP) Premium Assistance, with such amendment to be in place by April 30, 2018. Summary of Demonstration Under the NHHPP Premium Assistance demonstration, New Hampshire uses premium assistance to support the purchase of health insurance coverage for beneficiaries eligible under the new adult group provided via certain qualified health plans (QHPs) doing business in the individual market through the Marketplace. The demonstration affects individuals in the new adult group covered under Title XIX of the Social Security Act who are adults from age 19 up to and including age 64 with incomes up to and including 133 percent of the federal poverty level (FPL) who are neither enrolled in (nor eligible for) Medicare or enrolled in the state's Health Insurance Premium Payment (HIPP) program. Proposed Amendment The proposed amendment seeks to effect the following modification: Modify eligibility to require that newly eligible adults who are unemployed be eligible to receive benefits if DHHS finds that the individual is engaging in work or a combination of other clearly outlined activities for at least 20 hours per week upon application of benefits, 25 hours per week after receiving 12 months of benefits over the lifetime of the applicant and 30 hours per week after receiving 24 months of benefits over the lifetime of the applicant. Waiver and Expenditure Authorities Existing waiver and expenditure authorities will be not modified. Opportunity for Public Input The complete version of the current draft of the Demonstration application is available for public review at http://www.dhhs.nh.gov/pap-1115-waiver/index.htm. Public comments may be submitted until midnight on September 29, 2017. Comments may be submitted by email to NHPremiumAssistanceAmendment@dhhs.nh.gov or by regular mail to the NH Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301-3857. Comments should be addressed to Dawn Landry. Review of Documents and Submission of Documents This notice, waiver documents, and information about the New Hampshire Health Protection Program (NHHPP) Premium Assistance Demonstration are available at: http://www.dhhs.nh.gov/pap-1115-waiver/index.htm. To reach all stakeholders, non-electronic copies of all the aforementioned documents are available by contacting the Department of Health and Human Services, Dawn Landry. The State will host two public hearings during the public comment period. September 14, 2017 1:00 - 2:30 Manchester Health Department 1528 Elm St Manchester, NH 03010 September 21, 2017 11:00 12:30 New Hampshire Department of Health and Human Services Brown Auditorium 129 Pleasant St, Concord, NH 03301

Appeared in: ***The Union Leader*** on Wednesday, 08/30/2017

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Premium Assistance Program Section 1115 Demonstration Waiver

August 30, 2017
Notice is hereby given that the New Hampshire Department of Health and Human Services (DHHS) seeks to amend its Section 1115(a) Research and Demonstration Waiver, #11-W-00298/1 entitled, the New Hampshire Health Protection Program (NHHPP) Premium Assistance, with such amendment to be in place by April 30, 2018. View Public Notice

Update: September 21, 2017
DHHS will hold a third hearing on the proposal to allow for additional public input.

The hearing will be held on **Tuesday October 3, 2017 from 6:00-7:30pm** at the NH Department of Health and Human Services, Brown Building Auditorium, 129 Pleasant Street, Concord, NH.

The Public notice period has been extended and comments on the waiver amendment are being accepted until midnight on October 3, 2017.

Comments may be submitted by email to NHPremiumAssistanceAmendment@dhhs.nh.gov, or by mail to Dawn Landry, NH Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301-3857.

Summary of Demonstration

Under the NHHPP Premium Assistance demonstration, New Hampshire uses premium assistance to support the purchase of health insurance coverage for beneficiaries eligible under the new adult group provided via certain qualified health plans (QHPs) doing business in the individual market through the Marketplace. The demonstration affects individuals in the new adult group covered under Title XIX of the Social Security Act who are adults from age 19 up to and including age 64 with incomes up to and including 133 percent of the federal poverty level (FPL) who are neither enrolled in (nor eligible for) Medicare or enrolled in the state's Health Insurance Premium Payment (HIPP) program.

Proposed Amendment

The proposed amendment seeks to effect the following modification:
Modify eligibility to require that newly eligible adults who are unemployed be eligible to receive benefits if DHHS finds that the individual is engaging in work or a combination of other clearly outlined activities for at least 20 hours per week upon application of benefits, 25 hours per week after receiving 12 months of benefits over the lifetime of the applicant and 30 hours per week after receiving 24 months of benefits over the lifetime of the applicant.

- HB 517 NHHPP Work Requirements Amendment
- HB 517 NHHPP Work Requirements Amendment Written Comments

Opportunity for Public Input

Public comments may be submitted until midnight on September 29, 2017.

Comments may be submitted by email to NHPremiumAssistanceAmendment@dhhs.nh.gov, or by regular mail to:

Dawn Landry
NH Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301-3857

Public Hearings

The State will host two public hearings during the public comment period

September 14, 2017
1:00 - 2:30
Manchester Health Department
1528 Elm St
Manchester, NH 03010

September 21, 2017
11:00 – 12:30
New Hampshire Department of Health and Human Services
Brown Auditorium
129 Pleasant St,
Concord, NH 03301

525 Clinton Street
Bow, NH 03304
Voice: 603-228-2870
Fax: 603-228-2464

61 Elm Street
Montpelier, VT 05602
Voice: 802-229-0002
Fax: 802-223-2336

October 3, 2017

Submitted electronically to NHPremiumAssistanceAmendment@dhhs.nh.gov

Dawn Landry
Office of Medicaid Business and Policy
NH Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301-3857

Re: Comments on the NH Department of Health and Human Services draft amendment to the Section 1115(a) demonstration waiver, #11-W-00298/1, adding work requirements to the New Hampshire Health Protection Program

Dear Ms. Landry:

Thank you for the opportunity to provide comments on New Hampshire's draft amendment to the Section 1115(a) demonstration waiver, #11-W-00298/1, adding work requirements to the New Hampshire Health Protection Program enrollees as a condition of eligibility. I am submitting comments on behalf of Bi-State Primary Care Association. Bi-State is a non-profit, two-state organization that represents 16 non-profit Community Health Centers (CHCs) with 33 locations in New Hampshire. Bi-State advocates for access to health care for all New Hampshire citizens, with a special emphasis on medically underserved areas.

New Hampshire's CHCs serve over 109,000 residents annually, of which approximately 17,000 are uninsured. The New Hampshire Health Protection Program (NHHPP) is invaluable to health center patients. Our CHCs are non-profit community-based providers that serve patients regardless of their ability to pay.[1] Health center services include primary medical care, specialty care, behavioral health, and substance use disorder treatment. Over 60% of health center patients have household incomes under 200% of the federal poverty level (FPL).[2] Many patients experience barriers to health care and we strive to increase access to effective and affordable services.

The NHHPP enabled the state to provide needed coverage to uninsured people and increased access to primary and preventive care: in one year of the NHHPP, the number of health center patients increased by nearly 3,000 patients. The percentage of uninsured patients decreased from 19.5% to 14.5%.[3] The number of patients who accessed mental health services at CHCs increased by almost 2,300 patients and the number of patients who accessed substance use disorder treatment increased by over 200 patients.[4] Any amendment to the Section 1115 waiver should "increase and strengthen overall coverage of low-income individuals" in NH.[5]

The draft waiver amends the NHHPP to add, as a condition of Medicaid eligibility, a work requirement for able-bodied adults of 20 hours per week of a combination of specific employment and training activities.[6] The stated purpose of the amendment is to help put recipients on the path to attaining financial stability and move out of

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[1] Federally qualified health care centers (FQHC) are required to provide services without regard to patients' ability to pay or insurance status, use a sliding fee discount payment system tied to patients' income; operate as not-for-profit entities, have governing boards with 51% patient representation. *See* the Public Health Services Act 42 U.S.C. §254b, Section 330.

[2] Annual income at 200% FPL for a household of three is $40,840. https://aspe.hhs.gov/poverty-guidelines

[3] Health Resources and Services Administration, Uniform Data System, NH Rollup (2016)

[4] *Id*

[5] *About Section 1115 Demonstrations*, https://www.medicaid.gov/medicaid/section-1115-demo/about-1115-demo/index.html (last visited Sept. 26, 2017)

[6] NH House Bill 517 (Chapter 156, Laws of 2017); *See also* Draft Section 1115 Demonstration Amendment, New Hampshire Protection Program Premium Assistance Project #11-W-00298/1, August 30, 2017, page 6. The work requirement is based on length in the program: 20 hours per week initially, 25 hours per week after 1 year, 30 hours per week after 2 years. Under TANF, the work requirement is a flat 30 hours per week (20 per week for single patents). *See* Center on Budget and Policy Priorities, "Policy Basics: An introduction to TANF," June 15, 2015

poverty.[7] We agree that poverty facing those at and below 200% FPL is an important issue our state needs to address;[8] however, research shows most recipients subject to work requirements stayed poor and the employment increases were modest.[9] More importantly, the proposed work requirement does not further the objective of the Medicaid program as it may result in fewer people accessing critical health insurance coverage.

Today, low income adults covered under NHHPP have lower uninsured medical bills and access to more treatment for conditions like substance use disorder; and health care providers are seeing fewer uninsured patients.[10] As stated above, when people seek care for their untreated health conditions, their health improves. While the proposed amendment includes exemption criteria, the exemptions are too narrow to accommodate the reality of many of our low-income residents.[11] We are concerned that adding work requirements may thwart the critical gains our residents have made by having access to health care coverage under NHHPP if the patient is unable to meet one of the exemptions.

In addition, the implementation of the work requirement will be administratively burdensome for DHHS and could result in fewer people accessing Medicaid coverage. How will DHHS identify and track people whose disabilities or circumstances should exempt them? How will DHHS track the number of hours each recipient is working per week to determine compliance?[12] The staffing cuts to DHHS through the budget process are well known. Mistakes in determining eligibility could result in loss of coverage and administrative appeals. Self-attestation when applying for Medicaid should be sufficient and will minimize the burden on DHHS staff.

Also, research shows that most Medicaid recipients work in some capacity, and those potentially affected by work requirements are disproportionately from vulnerable populations and rural locations.[13] A work requirement could cause patients who are unable to work but are not included in the listed exceptions to lose their health coverage, exacerbating their chronic health conditions. For example, parents or caretakers of dependent children six years and older struggle to find affordable child care, especially in low-income families. The amendment does not include an exemption or exception for these caretakers. The approval of the draft amendment as written may result in parents losing access to critical health insurance coverage, health care, and ultimately, employment.

In closing, Bi-State appreciates the opportunity to submit comments on the waiver amendment. Please do not hesitate to contact me if you would like additional information or have questions on the comments presented above.

Sincerely,

Kristine E. Stoddard, Esq.
Director of NH Public Policy
603-228-2830, ext. 113
kstoddard@bistatepca.org

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[7] Draft Section 1115 Demonstration Amendment, page 7

[8] *See* N.H. Fiscal Policy Institute, "New Hampshire Poverty Rate Continues to Decline, but Many Granite Staters still struggle with very limited income" September 14, 2017

[9] Center on Budget and Policy Priorities, "Medicaid work requirements would limit health care access without significantly boosting employment," July 13, 2017, stating implementation of TANF work requirements cost states thousands of dollars per beneficiary and they were unsuccessful in increasing long-term employment

[10] http://www.dhhs.nh.gov/ocom/documents/senate-finance-oms-0501201 7.pdf#page=23

[11] *See* Kaiser Family Foundation, "Understanding the Intersection of Medicaid and Work, 3 (Feb. 2017).

[12] Draft Section 1115 Demonstration Amendment, page 7

[13] UNH Carsey School of Public Policy, http://scholars.unh.edu/ceds/vieweontent.cgi?article=1310&context=carsey *See also* NHFPI, "Medicaid Expansion work requirements hinge on federal approval" September 5, 2017 showing higher enrollment in NHHPP north of the Lakes Region

CYSTIC FIBROSIS
FOUNDATION
ADDING TOMORROWS

Dawn Landry
NH Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301-3857

October 3, 2017

Re: Section 1115 Demonstration Amendment: New Hampshire Health Protection Premium Assistance Program

Thank you for the opportunity to comment on New Hampshire's 1115 Demonstration Waiver Amendment. While we applaud the state for its success thus far in increasing access to health care coverage for low-income beneficiaries through the New Hampshire Health Protection program, we are concerned that the amendment to the 1115 demonstration to establish a Medicaid work requirement would create barriers to access for people with cystic fibrosis.

Cystic fibrosis (CF) is a life-threatening genetic disease that affects 209 people in New Hampshire and 30,000 children and adults in the United States. CF causes the body to produce thick, sticky mucus that clogs the lungs and digestive system, which can lead to life-threatening infections. As a complex, multi-system condition, CF requires targeted, specialized treatment and medications. Given the role that Medicaid plays in helping this patient population access the high-quality care and treatment they need to maintain or improve their health, we urge the state to ensure the needs of CF patients are met as the state makes changes to its Medicaid program.

Research shows that nearly 8 in 10 Medicaid adults are in working families and 59 percent are working themselves.[1] Medicaid is critical to helping employed individuals stay healthy and retain their employment status. Those with chronic conditions and significant health problems rely on Medicaid coverage to manage their disease and maintain their health for work.

For people who rely on Medicaid and are unable to work, we are concerned that this policy will jeopardize their access to vital health care. While many individuals living with CF are able to work full or part-time, others are not able to maintain employment based on their health or the amount of time they need to spend on their treatments. For instance, variations in health status due to pulmonary exacerbations, infections, and other events are common and can take someone out of the workforce temporarily or for longer periods of time. Furthermore, many patients bear a significant treatment burden, amounting to hours of chest physiotherapy, delivery of nebulized treatments, administration of intravenous antibiotics, and/or other activities required to maintain or improve their health, which can interfere with their ability to work.

[1] Kaiser Family Foundation, *Medicaid and Work Requirements*. (Online) March 2017. Available http://kff.org/medicaid/issue-brief/medicaid-and-work-requirements/

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While we appreciate the state's decision to exempt from work requirements a person who is temporarily unable to fulfill the requirements due to illness—which reflects the important reality that health status can significantly affect an individual's ability to search for and sustain employment—we urge the state to provide specificity on this exemption. In particular, for the reasons outlined above, we ask the state to include cystic fibrosis as part of the definition of individuals who may be temporarily unable to work and automatically exempt them from the work requirement.

Finally, we urge the state to provide specificity on the timeline for exemption determination. Getting a disability determination is difficult and time-consuming, it typically takes about 90 days for a disability determination and applicants often need legal assistance to complete the process.[7] Clear rules around the application process, eligibility requirements, and timeframes will help ensure that eligible individuals are able to get an exemption.

The Cystic Fibrosis Foundation appreciates the opportunity to provide input on these important policy changes. As the health care landscape continues to evolve, we look forward to working with the state of New Hampshire to ensure access to high-quality, specialized CF care and improve the lives of all people with cystic fibrosis. Please consider us a resource moving forward.

Sincerely,

Mary B. Dwight
Senior VP of Policy & Patient Assistance Programs
Cystic Fibrosis Foundation

Lisa Feng, DrPH
Senior Director of Access Policy & Innovation
Cystic Fibrosis Foundation

Margaret F. Guill, M.D.
Director, Pediatric Cystic Fibrosis Program
Dartmouth-Hitchcock Medical Center
Lebanon, NH

[7] Health Affairs. *Medicaid Work Requirements: Who's at Risk?* (Online). April 2017. Available: http://healthaffairs.org/blog/2017/04/12/medicaid-work-requirements-who-at-risk/

NEW HAMPSHIRE
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Vice-Chair

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NH Dental Society

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Seacoast Mental Health Center

Diana Dedousis
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Kristine Stoddard
Bi-State Primary Care Association

Carolyn Virtue
Granite Care Management

Michelle Winchester

September 28, 2017

Jeffrey Meyers
Commissioner
Department of Health and Human Services
129 Pleasant Street
Concord NH 03301

Dear Commissioner Meyers:

I am writing to you as the Chair of the Medical Care Advisory Committee (MCAC) to share our thoughts on Draft Section 1115 Demonstration Amendment, New Hampshire Health Protection Program Premium Assistance, Project #11-W-00298/1 seeking approval from the Centers For Medicare and Medicaid Services (CMS) of a work requirement for the New Hampshire Health Protection population, as a condition of eligibility for the program.

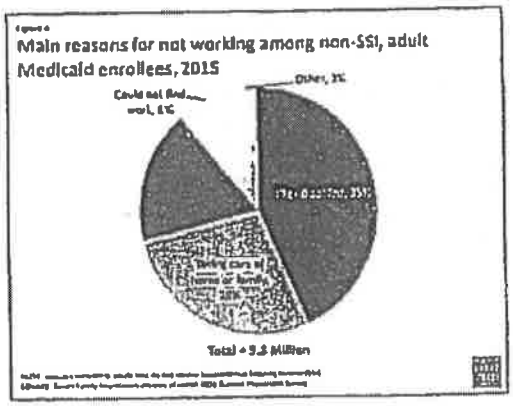
The MCAC is a public advisory group established in accordance with 42 CFR § 431.12 to advise the State Medicaid Director regarding New Hampshire Medicaid policy and planning. Our members come with extensive health policy and lived experience and are committed to making Medicaid work for low income, categorically eligible, at risk individuals and the State of New Hampshire.

This amendment may not have the intended outcomes of increasing employment among the expansion population for a number of reasons. High employment among NHHPP enrollees, exemption criteria for participation, and administrative costs threaten the success of this amendment. We have outlined below how these 3 factors impact a work requirement and show that a one-size fits all approach to this work requirement will be costly and not dramatically increase employment. State resources could be better applied to the stated aim of this amendment which is to increase employment. For example, child care, transportation are significant barriers to work that state resources would be better utilized to address.

These 3 factors that will need to be addressed in this amendment:

<u>Majority of Medicaid Expansion Enrollees are employed</u>: Employment rates among NHHPP enrollees is high with 60% working and 74% members of working families. (http://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/) Because a large majority is working, the amendment should be written to minimize bureaucratic burdens on both enrollees and DHHS staff for these individuals who are working. Initial self-attestation to work status at enrollment is sufficient to determine employment status and minimize administrative burden. Those that are unemployed at that time and do not meet exemption criteria should be offered a suite of services to increase the likelihood of becoming employed. Because churn is high among NHHPP enrollees, ongoing attestation and monitoring of employment status is unnecessary.

Many who are not working would meet exemption criteria: We agree that exemption criteria are appropriate *if* a work requirement is implemented. Sixty-three percent of adult Medicaid enrollees are unemployed because either they are sick or they are caring for another family member. Eighteen percent are pursing education to gain skills that would make them more competitive in the job market.



The Department should focus their efforts on the percentage who are unsuccessfully looking for work. Again, self-attestation to exemption criteria at enrollment is sufficient to identify the most appropriate individuals in need of assistance in finding employment.

Administrative costs: Resources to administer this program for the entire expansion population will pull funds from other programs within the department and threaten budget neutrality. The Department will need to fully explain the budget and health implications of implementing the work requirement. The amendment must discuss the costs of running the program, the expected increase in employment as a result of the program and detail all potential harm that may come from this requirement in terms of financial and health costs.

Thank you for the opportunity to express our thoughts regarding this work requirement proposal. The MCAC would welcome the opportunity to discuss this matter further with you.

Sincerely,

P. Travis Harker MD, MPH
Chair, Medical Care Advisory Committee

American Cancer Society
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603.471.4115
www.acscan.org/nh

September 29, 2017

Dawn Landry
Department of Health and Human Services
Office of Medicaid Business and Policy
129 Pleasant Street
Brown Building
Concord, NH 03301

Re: New Hampshire Health Protection Program Section 1115 Demonstration Amendment

Dear Ms. Landry:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on New Hampshire's 1115 demonstration waiver amendment application. ACS CAN, the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government.

ACS CAN supports New Hampshire's decision to maintain comprehensive health care coverage for thousands of low-income state residents through the New Hampshire Health Protection Program (NHHPP). Over 8,600 residents of New Hampshire are expected to be diagnosed with cancer this year[1] – many of whom rely on NHHPP for their health care coverage. ACS CAN wants to ensure that low-income cancer patients and survivors in New Hampshire have adequate access and coverage under the NHHPP, and that specific requirements do not create barriers to care for low-income cancer patients, survivors, and those who will be diagnosed with cancer during their lifetime. We are concerned about the waiver's proposed work requirement as a condition of eligibility for NHHPP enrollees. Enforcement of a work requirement could adversely impact the most vulnerable New Hampshire residents enrolled in the program, particularly low-income cancer patients and survivors.

The requirement that all able-bodied NHHPP enrollees be engaged in 20 to 30 hours of work, education, and job training as a condition of eligibility would severely limit eligibility and access

[1] American Cancer Society. *Cancer Facts & Figures 2017*. Atlanta, GA: American Cancer Society; 2017.

to care for low-income New Hampshire residents managing complex chronic conditions, including cancer patients, recent survivors, and those women diagnosed with cancer through the state's *Let No Woman Be Overlooked* program. Unfortunately, it may not be possible for some cancer patients to meet these requirements. Cancer patients in active treatment are often unable to work for periods of time or require significant work modifications due to the side effects commonly associated with treatment.[2,3,4] If this requirement is included as a condition of eligibility for coverage, some cancer patients could be ineligible for the lifesaving cancer treatment services provided through NHHPP.

The proposal's graduated hours of employment, based on the length of an enrollee's enrollment in NHHPP, disregards the complex nature of many chronic conditions and the toll these diseases have on individuals, such as cancer patients and survivors. Increasing the number of hours that an individual must be engaged in work, education, and/or training based on the cumulative length of their eligibility is arbitrary and will likely result in the most vulnerable NHHPP enrollees facing coverage disruptions that could adversely impact their management of complex conditions, like cancer.

We appreciate the State's acknowledgement that not all eligible individuals are able to work and have laid out exemptions from the work requirement. Unfortunately, we are concerned that cancer patients and, particularly, recent survivors may not explicitly fit in the state's exemption categories. We urge the state to utilize the federal medically frail designation (42 CFR §440.315(f)), which would more clearly define the serious and complex medical conditions that would allow an individual to be exempt from this requirement. Further, we ask that New Hampshire include in its definition of medically frail or alternative exemption criteria those individuals who are currently undergoing active cancer treatment –including chemotherapy, radiation, immunotherapy, and/or related surgical procedures – as well as new cancer survivors who may need additional time following treatment to transition back into the workplace.

Conclusion

We appreciate the opportunity to provide comments on the NHHPP draft waiver amendment. The preservation of eligibility and coverage through NHHPP remains critically important for many low-income New Hampshire residents who depend on the program for cancer prevention, early detection, diagnostic, and treatment services. As the Department of Health

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[2] Whitney RL, Bell JF, Reed SC, Lash R, Bold RJ, Kim KK, et al. Predictors of financial difficulties and work modifications among cancer survivors in the United States. *J Cancer Surviv*. 2016; 10:241. doi: 10.1007/s11764-015-0470-y.

[3] de Boer AG, Taskila T, Tamminga SJ, et al. Interventions to enhance return to work for cancer patients. *Cochrane Database Syst Rev*. 2011; 16(2): CD007569. doi: 10.1002/14651858.CD007569.pub2.

[4] Sterglou-Kita M, Pritlove C, van Eerd D, Holness LD, Kirsh B, Duncan A, Jones J. The provision of workplace accommodations following cancer: survivor, provider, and employer perspectives. *J Cancer Surviv*. 2016; 10:480. doi: 10.1007/s11764-015-0492-5.

and Human Services considers its final waiver application, we ask that you weigh the impact this proposed policy change could have on NHHPP enrollees access to lifesaving health care coverage, particularly those individuals with cancer, cancer survivors, and those who will be diagnosed with cancer during their lifetime.

Maintaining access to quality, affordable, accessible, and comprehensive health care coverage and services is a matter of life and survivorship for thousands of low-income cancer patients and survivors, and we look forward to working with the New Hampshire Department of Health and Human Services to ensure that all Americans are positioned to win the fight against cancer. If you have any questions, please feel free to contact me at mike.rollo@cancer.org or 603.471.4115.

Sincerely,

Mike Rollo
Government Relations Director, New Hampshire
American Cancer Society Cancer Action Network

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September 29, 2017

Dawn Landry
New Hampshire Department of Health and Human Services (NHDHHS)
129 Pleasant Street – Thayer Building
Concord, NH 03301

RE: Draft Section 1115 Demonstration Amendment
New Hampshire Health Protection Program
Premium Assistance (NHHPP) Project #11-W-00298/1

Dear Ms. Landry:

We write on behalf of New Hampshire Legal Assistance (NHLA) to convey NHLA's opposition to Draft Section 1115 Demonstration Amendment (Amendment), New Hampshire Health Protection Program Premium Assistance Project #11-W-00298/1 seeking approval from the Centers For Medicare and Medicaid Services (CMS) of a work requirement for the New Hampshire Health Protection population, as a condition of eligibility for the program.[1]

NHLA is a non-profit law firm. We represent low-income and elderly clients in civil cases impacting their basic needs, including healthcare. Our concerns are detailed in the following testimony, but in short, approval of the work requirement is impermissible under federal law. Medicaid Section 1115 demonstration projects may only be approved if they promote the objectives of the Medicaid program. The objective of the Medicaid program is to provide healthcare services. In addition, the proposed Amendment is unnecessary as the majority of NHHPP adults who are not disabled are already working. Consequently, the administrative burden and expense of administering and verifying the work requirement will likely outweigh any financial gain caused by additional NHHPP adults finding work or savings from reduced enrollment. It is likely that otherwise eligible adults will lose health care due to difficulties with the work verification process. Finally, there is little empirical data that work requirements in other public benefit programs increase long term work participation or reduce poverty.

1. This Amendment goes further than the previous amendment and fails to recognize that most Medicaid enrollees already work.

Making Medicaid eligibility contingent on work fails to address the barriers to work that exist, such as access to and cost of childcare and transportation. The Amendment goes further than the previous amendment by applying the work requirement to parents with school-aged children and removing community service as a qualifying activity. In addition, qualifying activities to meet the required hours fail to include higher education and community service. The way in which hours will be counted fails to address the fluctuation inherent in low-wage

[1] NHLA submits these comments without prejudice to the right of our law firm and/or our current or future clients to make any claims in any current or future litigation. Absence of comment regarding any proposed changes set forth Draft Section 1115 Demonstration Amendment, New Hampshire Health Protection Program Premium Assistance Project #11-W-00298/1 should not be construed as support for those proposed changes nor agreement that they are lawful.

jobs, such as seasonal work, varying hours, insufficient hours, and short notice of shifts. Finally, the amendment provides no phase-in or flexibility with calculating hours over the course of the month or year.

The Amendment is unnecessary as New Hampshire has one of the lowest unemployment rates in the nation and the majority of NHHPP adult enrollees who are not disabled or elderly are already working. Currently, receipt of medical assistance under NHHPP requires the recipient to contact NH Employment Security for the purpose of finding employment and filing for unemployment.

An issue brief by the Kaiser Foundation shows that, without a work requirement in place, in New Hampshire 60% of healthy (not on federal disability programs) and non-elderly adults are working and that 74% are in working families[2]. Even when excluding SSI, most Medicaid adults not working report major impediments to work such as illness/disability, going to school, and taking care of family[3].

Good health is a pre-condition to work. Without access to medical care, untreated medical conditions, chronic pain, and dental needs are additional barriers to work. One study of adults on Medicaid reported that having that coverage made it easier to look for employment, continue working, pay their rent/mortgage, and buy food. Those with medical debt fell by nearly half since enrollment in Medicaid.[4]

2. The expenses and burden of imposing work requirements for NHHPP enrollees will outweigh any benefits to reduce poverty and increase employment.

The Amendment, if approved, will undoubtedly lead to added NHDHHS expenses to administer the NHHPP and cause improper termination of health insurance for NHHPP enrollees with little empirical evidence that the work rules will increase long term employment rates or reduce poverty. As of August 2017, over 51,000 individuals received NHHPP coverage. The Amendment will require employed NHHPP enrollees to document in some fashion that they are working the required hours. NHHPP enrollees are also in the program because they are unable to work due to disability but still waiting for a decision in their Social Security disability case. It will now be necessary for those individuals to document that they are unable to work. This will be an added expense and burden to NHDHHS and to enrollees and their health care providers.

The state will have to pay for at least 50% of the administrative costs to make these changes, train staff, and absorb the costs of decreased productivity. In addition to costs to the state, it is important to recognize the potential costs to the health care system. For example, when people lose coverage, emergency department use goes up. NH hospitals report ED visits among the uninsured have gone down 28% since NHHPP began[5].

There are already work requirements for the TANF and Food Stamp programs. The work rules and verification requirements for these programs are different. NHDHHS has developed a customer service office and systems for beneficiaries to provide verification. Many beneficiaries have limited contact with local NHDHHS offices. NHLA clients report to us:

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[2] http://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/
[3] http://www.kff.org/medicaid/issue-brief/medicaid-and-work-requirements/
[4] http://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Assessment.pdf
[5] https://nhha.org/images/NHHPP_economic_impact_document_october_2015_final.pdf

- difficulty understanding the NHDHHS notices because the verification requirements are often not clear;
- losing benefits because documents scanned were not timely or properly put into their electronic case file; and
- not understanding what verification is needed even after talking to someone at the customer service office.

The Center on Budget and Policy Priorities has reviewed work rules in the TANF program and concluded that not only could work requirements be costly and burdensome for states, but that there were only modest long-term gains in employment. The share of families living in deep poverty (below half the poverty line) rose in programs that imposed work requirements because of the loss of cash benefits.[6]

3. The Section 1115 Demonstration Amendment is contrary to the purposes of Medicaid.

Section 1115 Demonstration Amendments are supposed to test an experimental concept to improve health care. A mandatory work rule is not medical care, especially if the implementation of the work rules causes individuals to lose health insurance. Under 42 U.S.C. § 1315(a), demonstration projects may be approved if they promote the objectives of the Medicaid program. The objective of the Medicaid program is to provide healthcare services. As you know in November 2016, CMS rejected an earlier New Hampshire Section 1115 Demonstration Amendment with work requirements stating:

> *"CMS reviews section 1115 demonstration applications and amendments to determine whether they are likely to further the objectives of the Medicaid program, including strengthening coverage or health outcomes for low-income individuals in the state or increasing access to providers. After reviewing NH's amendment require to determine whether it meets these standards, CMS is unable to approve the request which could undermine access, efficiency, and quality of care provided to Medicaid beneficiaries and do not support the objectives of the Medicaid program."*

To date, Congress has failed to amend federal law to allow for work requirements under the Medicaid Act. Given the limits of Section 1115 Waivers there are serious legal questions as to whether CMS has authority to allow New Hampshire to impose work requirements.

Thank you for the opportunity to comment on the proposed Draft Section 1115 Demonstration Amendment. Please contact us at the numbers below if you have any questions.

Sincerely,

Dawn McKinney
Policy Director
206-2228

/s/ Bennett B. Mortell
Bennett B. Mortell, Esq.
Public Benefit Project Director
206-2239

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[6] https://www.cbpp.org/research/poverty-and-inequality/work-requirements-dont-cut-poverty-evidence-shows

newfutures

advocate • educate • collaborate
to improve the health and wellness of all Granite Staters

September 29, 2017

Jeffrey Meyers
Commissioner
Department of Health and Human Services
129 Pleasant Street
Concord NH 03301

Via Email Only: NHPremiumAssistanceAmendment@dhhs.nh.gov

Re: Draft Section 1115 Demonstration Amendment, New Hampshire Health Protection Program

Dear Commissioner Meyers:

New Futures is a nonpartisan, nonprofit organization that advocates, educates, and collaborates to improve the health and wellness of all New Hampshire residents. New Futures envisions State and local communities where public policies support timely access to quality and affordable healthcare for all Granite Staters. With that mission in mind, we offer the following comments:

Administrative Costs and Burden

The work requirement outlined in the 1115 Demonstration Amendment proposed on August 20, 2017 is not similar to any work requirement that the Department of Health and Human Services (DHHS) is currently administering (ie. TANF). Therefore, the work requirement for the New Hampshire Health Protection Program (NHHPP) will pose a new administrative burden on DHHS, the cost of which was not appropriated in HB 517. This graduated work requirement (starting at 20 hours per week upon application and increasing over time to a 30 hour per week requirement upon receiving benefits for 24 months) adds to the administrative complexity. Kentucky recently amended its Medicaid work requirement proposal from a graduated work requirement to a flat work requirement due to the complexity of the administrative burden caused by a graduated work requirement.

New Futures questions whether DHHS has calculated the cost and assessed the burden of administering the proposed graduated work requirement for the NHHPP, and provided such estimates to the legislature. If so, such information should be made public. New Futures also questions whether DHHS has articulated a strategy to offset this cost to achieve the required budget neutrality for an 1115 waiver.

To ease this administrative burden, New Futures suggests that DHHS use a self-attestation approach to assess work status at the time of enrollment and during reauthorization periods.

Work Requirements Alone Do Not Effectively Increase Employment

Work requirements alone will not result in the intended outcome of increasing employment among NHHPP recipients. First, only a very small percentage of individuals in the NHHPP will be affected by this requirement, since most are either already working or meet the criteria for one of the exemptions. Second, the work requirement does nothing to address the barriers that keep many out of the workforce.

About seventy percent of the individuals in the Medicaid expansion programs across the country are either working, enrolled in school, caring for a child under 6, or retired. Of the remaining thirty percent, twenty percent worked some, and about three percent were actively looking for a job. Only about seven percent were not actively looking for a job, in school, or caring for a child under 6. (https://carsey.unh.edu/publication/3-in-10-medicaid). In 2015, of those who were not working, thirty-five percent were disabled, twenty-eight percent were taking care of family, eighteen percent were going to school, eight percent were retired, eight percent could not find work, and three percent provided another reason for not working. (http://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/). Since the work requirement would only affect a very small number individuals, it will have very little impact on raising the employment status of people receiving NHHPP benefits.

These facts prompt New Futures to ask, has DHHS done an assessment to ascertain exactly how many people on the NHHPP currently meet the proposed work requirement? If so, how many individuals currently meet the proposed work requirement? Has DHHS done an assessment to ascertain exactly how many people on the NHHPP currently meet the criteria for one of the exemptions of the proposed work requirement? If so, how many individuals currently meet criteria for one of the exemptions?

Many low-income individuals have difficulty obtaining and maintaining employment because of significant barriers. These barriers include: having a behavioral health condition, limited education and skills, a criminal justice background, and/or a lack of access to childcare and transportation. (https://www.cbpp.org/research/health/medicaid-work-requirement-would-limit-health-care-access-without-significantly). Without supports in place for individuals to overcome these barriers, simply having a work requirement will do no more than limit healthcare to some of the most vulnerable residents of our state.

Since the stated intent of this 1115 Demonstration Amendment is to "promote work opportunities" for the NHHPP population, it is imperative that barriers to employment be addressed. New Futures suggests that barriers be addressed either through providing supports for individuals to overcome the barriers or by allowing exceptions of the work requirement for those who have barriers that make obtaining and maintaining employment difficult.

Sincerely,

Holly A. Stevens, Esq.
Health Policy Coordinator

Reagan, Lorene

From: Cindy Rosenwald <cindy.rosenwald@gmail.com>
Sent: Thursday, September 07, 2017 3:27 PM
To: DHHS: NH Premium Assistance Amendment
Subject: Medicaid Expansion Work Requirement waiver
Attachments: hb517-nhhpp-work-reqs-2017.pdf; ATT00001.txt

Dear Commissioner Meyers:

Thank you for the opportunity to offer comment on the proposed amendment to New Hampshire's 1115 waiver to implement a work requirement for the Medicaid Expansion program.

I have a general concern that implementing a work requirement on this population, which has higher-than-average mental health and substance abuse disorder diagnoses, will not further Medicaid's goal of improving health outcomes. Requiring work in a population that has medical problems severe enough to limit ability to hold a job will lead directly to dis-enrollment. Dis-enrollment from the NH Health protection Program will prohibit the access to care that can improve the individual's health and work-readiness, the goals of the program. The program's effectiveness in improving health and ability to work is strongly suggested by the fact that being over income accounts for more than half the enrollees losing eligibility.

I also have a specific concern with the proposed elements of the work requirement under discussion to the extent they are stricter than the work requirements of the Temporary Assistance to Needy Families program (which only requires 50% of recipients to meet). In limiting the exemption from the requirement to parents or caretakers of children under six, I worry that either young children will be left unsupervised during summer break from school, or the parents will be dis-enrolled from the program because they are working and do not have access to affordable childcare.

The New Hampshire Health Protection Program has been highly effective in providing access to health care for 50,000 low income residents, many of whom have a mental health or substance abuse disorder. In the midst of a significant opioid crisis, we should be very leery of making changes to the program that could jeopardize its continued effectiveness.

Sincerely,
Rep. Cindy Rosenwald
Hillsborough District 30

Reagan, Lorene

From: Joe Kilcullen <jkilccdc@yahoo.com>
Sent: Tuesday, September 05, 2017 4:14 PM
To: DHHS: NH Premium Assistance Amendment
Subject: Work

Another ill advised bill by ignorant, self righteous politicians. It is not a good idea to ask persons in early stages of recovery to work when the are recovering from a debilitating disease.

The motivation to work is often there early on in recovery, but the clients are not work ready. They would be better off putting there energy into recovery activities; meetings, etc.

Most of the jobs they qualify for are low paying service jobs in environments that are not drug free. Most relapses occur because a fellow employee is actively using and offers drugs to the person in recovery.

After the first 3 months of recovery it should be enough that the person is actively seeking employment. Most are.

Joe Kilcullen, MLADC

Reagan, Lorene

From: Kelly Warner <kellwarner@gmail.com>
Sent: Thursday, September 21, 2017 8:35 PM
To: DHHS: NH Premium Assistance Amendment
Subject: public comment

Good evening Ms. Landry,

I recently learned about the New Hampshire legislature's plan to ask the federal government for a waiver to require citizens who request access to expanded Medicare to provide proof of employment or a physician's note to certify that they are medically unable to work. To me, that does not make sense. As a high school teacher, I have had contact with many students who struggle with mental health issues or other health issues, and I can only imagine that there are many people in our state who are around the poverty line and are having trouble finding employment because they cannot afford health care to help them cope with their health issues. It makes more sense to allow such people access to health care so that they can get their health under control and then seek out employment. Once they do this, many of them will probably end up on their employer's insurance or earn enough to qualify for ACA coverage soon anyway. Preventing them from accessing health care in the meantime would make it harder for them to move away from needing social services provided by the state, perhaps costing taxpayers more money in the long run. I work in Maine, a state that has not expanded Medicare. New Hampshire has made the wise decision to do so, and I urge the legislature to continue to do what makes sense for our citizens, and not move forward with this waiver request.

Sincerely,

Kelly Warner
Exeter, NH

Reagan, Lorene

From: EILEEN FLOCKHART <hartflock@comcast.net>
Sent: Friday, September 29, 2017 10:51 AM
To: DHHS: NH Premium Assistance Amendment
Subject: citizen of Exeter comment

I write in opposition to this work requirement amendment.

As a former teacher, State representative and now board member of our local community assistance center and food pantry, I see this amendment as counter productive and ill advised.

We see clients daily that are working hard to maintain their lives and families. When they come to our center we see a genuine eagerness to find work and get away from assistance they are often embarrassed to receive. When they find that work they often return to us to share the good news. These are responsible adults able to make decisions not children who need punitive guidelines before receiving help.

Please respect their intelligence and our efforts in helping them to succeed and defeat this amendment.

thank you

former State Rep. Eileen Flockhart

Reagan, Lorene

From: Nancy Rockwell <nanrockwell@comcast.net>
Sent: Friday, September 29, 2017 10:31 AM
To: DHHS: NH Premium Assistance Amendment
Subject: Comment on Proposed Work Rule for Medicaid

This idea, of imposing a work rule on Medicaid recipients is mean-spirited enough to be called evil. The constant drum-beat of suspicion of the poor is a view of poverty without any compassion, and a view of humanity that is disdainful.

It has always been true that the variation in human includes many who simply are not fit to work - because of visible disability, because of mental illness, severe ADD, biologically based depression, addiction, a lack of attention to details that drives employers crazy but is intrinsic to some people, chronic illnesses like asthma, emphysema, and severe pain, and because of a borderline IQ which makes every day difficult.

Instead of having heartfelt gratitude if you are not among the many who cannot work, too many indulge in angry suspicion that the poor are really bad people. The bad-seed theory, this used to be called.

As a Pastor in New Hampshire, I know that none of this is Christian. In the Bible, the rich are the problem the poor are struggling with. Not the other way around. In the Bible, Jesus especially asks us to be generous to the poor and the vulnerable.

I don't find it pleasant to deal with addicts who try to lie their way into some money from me, but I do know they are in misery, and their human need outweighs my desire for better behavior.

We have an opioid crisis in NH, and it affects the families of addicts, too.

And we have families with many children and hardly any income, people too old to find work again, and too young for Medicare, immigrants whose papers may not exist but whose illnesses are real.

Don't restrict this compassionate action - don't let human need go unmet.

Reagan, Lorene

From: jane oldfield-spearman <janeellen.os@gmail.com>
Sent: Friday, September 29, 2017 1:29 PM
To: DHHS: NH Premium Assistance Amendment
Subject: Work requirement for Medicaid recipients is a bad idea

To whom it may concern:

I am very alarmed at the proposal to require medicaid recipients to engage in at least 20 hours of employment or training activities in order to receive their health care coverage. This is a punitive measure that would effectively knock more poor and disabled people out of the medicaid pool. The whole reason they are eligible for medicaid is because they usually have a profound disability and are sadly lacking in financial resources. Demanding that they show proof of employment adds another hurdle for these folks and is morally wrong. It is also going to lead to more people who are struggling with the opioid crisis to be blocked from receiving the treatment they need and will cause terrible suffering and crime in our communities.

Jane Oldfield-Spearman
35 Pine Street
Exeter, NH 03833

APPENDIX B

TRIBAL IMPACT

Not applicable to the State of New Hampshire.

APPENDIX C

Amended 1115 Budget Neutrality Projections – New Hampshire Health Protection Program Premium Assistance Program

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John D. Meerschaert, FSA, MAAA
Principal and Consulting Actuary

john.meerschaert@milliman.com

October 11, 2017

Mr. Jeffrey A. Meyers
Commissioner
NH Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301

Re: Estimated Impact of Proposed Work Requirement on Premium Assistance Program 1115 Waiver Budget Neutrality Projections

Dear Commissioner Meyers:

At your request, we estimated the impact of implementing the proposed New Hampshire's Premium Assistance Program (PAP) work requirement on the 1115 waiver budget neutrality projections. DHHS can use this information in its 1115 waiver amendment materials.

Although the proposed work requirement will likely result in lower PAP enrollment levels, we do not believe it will have a material impact on the 1115 waiver budget neutrality projections for calendar year (CY) 2018 for the following reasons:

- CY 2018 premiums rates have already been filed by the carriers participating in the PAP and will not change if New Hampshire's waiver amendment is approved. Carrier premiums rates and the related prospective cost sharing reduction (CSR) payments represent the vast majority of PAP expenditures.
- The PAP budget neutrality projections are administered on a per capita basis. Therefore, the budget neutrality calculation will adjust automatically to reflect the number of members enrolled in PAP coverage.
- We are not aware of any data or estimates that project the demographics or medical expenditures of current PAP members that could lose coverage under the work requirement.

CAVEATS AND LIMITATIONS ON USE

This letter is intended for the internal use of the New Hampshire Department of Health and Human Services (DHHS) and it should not be distributed, in whole or in part, to any external party without the prior written permission of Milliman. We do not intend this information to benefit any third party, even if we permit the distribution of our work product to such third party. We understand this letter will be part of New Hampshire's application to CMS.

This letter is designed to provide DHHS with information regarding budget neutrality projections for the *New Hampshire Health Protection Program Premium Assistance Program* Section 1115 Demonstration Waiver. This information may not be appropriate, and should not be used, for other purposes.

Actual without-waiver and with-waiver results will vary from estimates due to costs and savings under the demonstration being higher or lower than expected. DHHS should monitor emerging results and take corrective action when necessary.

In preparing this information, we relied on information from DHHS regarding the proposed work requirement in its waiver amendment application. We accepted this information without audit, but reviewed the information for general reasonableness. Our results and conclusions may not be appropriate if this information is not accurate.

I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

The terms of Milliman's contract with NH DHHS dated June 14, 2017 apply to this letter and its use.

Please call me at (262) 796-3434 if you have any questions.

Sincerely,

John D. Meerschaert, FSA, MAAA
Principal and Consulting Actuary

JDM/kal