



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of
Health and Social Services**

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March 26, 2015

Representative Paul Seaton
Chair, House Health & Social Services Committee
Capitol Room 102
Juneau, AK 99801

Dear Representative Seaton:

Below please find responses to the questions that were asked at the House Health & Social Services Committee meeting on Tuesday, March 24, 2015, during discussion on House Bill 148.

1. *Has the Department considered removing food stamp recipients from the "hold harmless" provisions that enable their Permanent Fund Dividends to not be counted towards income?*

No.

2. *Please provide an example of the "typical transition language" for stepping back from participation in a 1115 waiver project, as mentioned in Secretary Burwell's letter.*

The reference in the March 6th letter from Secretary Burwell to Governor Walker is to the Medicaid waiver special term and condition relating to phase-out of coverage. Here is language from Indiana's waiver approval document:

9. Demonstration Phase Out. The state may only suspend or terminate this demonstration in whole, or in part, consistent with the following requirements.

a. Notification of Suspension or Termination. The state must promptly notify CMS in writing of the reason(s) for the suspension or termination, together with the effective date and a transition and phase-out plan. The state must submit a notification letter and a draft plan to CMS. The state must submit the notification letter and a draft plan to CMS no less than six (6) months before the effective date of the demonstration's suspension or termination. Prior to submitting the draft plan to CMS, the state must publish on its website the draft transition and phase-out plan for a 30-day public comment period. In addition, the state must conduct tribal

consultation in accordance with 42 CFR 431.408. Once the 30-day public comment period has ended, the state must provide a summary of each public comment received, the state's response to the comment and the extent to which the state incorporated the received comment into the revised plan. The state must obtain CMS approval of the transition and phase-out plan prior to the implementation of the phase-out activities. Implementation of activities must be no sooner than 14 days after CMS approval of the plan.

b. Transition and Phase-out Plan Requirements. The state must include, at a minimum, in its plan the process by which it will notify affected beneficiaries, the content of said notices (including information on the beneficiary's appeal rights, if any), the process by which the state will conduct administrative reviews of Medicaid eligibility prior to the termination of the program for the affected beneficiaries, and ensure ongoing coverage for those beneficiaries determined eligible, as well as any community outreach activities including community resources that are available.

c. Phase-out Procedures. The state must comply with all applicable notice requirements found in 42 CFR §431.206, §431.210, and §431.213. In addition, the state must assure all applicable appeal and hearing rights afforded to demonstration participants as outlined in 42 CFR §431.220 and §431.221. If a demonstration participant is entitled to and requests a hearing before the date of action, the state must maintain benefits as required in 42 CFR §431.230. In addition, the state must conduct administrative renewals for all affected beneficiaries in order to determine if they qualify for Medicaid eligibility under a different eligibility category. 42 CFR §435.916.

d. Exemption from Public Notice Procedures 42.CFR §431.416(g). CMS may expedite the federal and state public notice requirements in the event it determines that the objectives of title XIX and XXI would be served or under circumstances described in 42 CFR §431.416(g).

e. Federal Financial Participation (FFP). If the project is terminated or any relevant waivers suspended by the state, FFP shall be limited to normal closeout costs associated with terminating the demonstration including services, continued benefits as a result of beneficiaries' appeals and administrative costs of disenrolling beneficiaries

This language can be found at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/in/Healthy-Indiana-Plan-2/in-healthy-indiana-plan-support-20-ca.pdf>. We note that Arkansas's waiver approval document contains the same language. Also, HB 148 does not require use of an 1115 waiver for Medicaid expansion. This phase-out language only pertains to 1115 waivers.

3. *Please define which statutory rate for post-judgment interest is to be used under Section 4 of HB 148.*

The formula for the statutory rate of interest is set by AS 09.30.070 and is 3 points over the 12th Federal Reserve District discount rate. The 2015 rate is .75, plus 3, or 3.75. The rate is set on January 2nd of each calendar year.

4. *Please re-examine Section 5 and consider language specifically excepting portions of AS 47.05 that deal with criminal fraud to avoid the inference that civil fines can be used to replace criminal findings and restitution.*

The department discussed this question with the Department of Law and our shared belief is that the language in the bill is appropriate.

Following the hearing we also received these questions from your office:

1. *Is there a real difference between the current treatment of behavioral health versus physical health and the parity between them under Medicaid expansion? In other words are there additional requirements that come with expansion for Medicaid and the requirement that the states treat mental and physical health with parity, or was the parity issue tied to more general changes in the Affordable Care Act?*

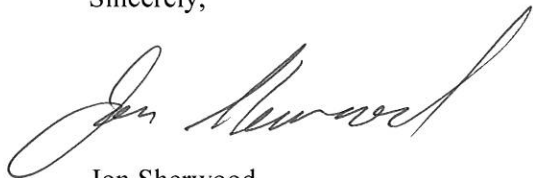
Medicaid expansion brings no additional requirements regarding parity between behavioral and physical health services.

2. *We would like to clarify something in regards to the 1915(i) option. On Saturday, Jon Sherwood said that the expected level of payment to providers would be similar to what it is currently. Does that mean that, for persons that do not necessarily qualify for nursing home level of care but do qualify for the (i) waiver, payments will be similar to those received under the current waiver? Or will they be similar to the payment received through general relief?*

For most services, we expect that rates would be similar to 1915(c) waiver rates. For assisted living home services, we anticipate that rates under the 1915(i) option will be reflective of the level of care required by the patient. For clients with a low level of care, rates would be similar to those received through general relief; rates will be higher for clients with more intensive needs and therefore a higher level of care.

Thank you for the questions.

Sincerely,



Jon Sherwood
Deputy Commissioner

Cc: Valerie Davidson, Commissioner, DHSS
Darwin Peterson, Legislative Director, Governor's Office
Stacie Kraly, Chief, Civil Division, Department of Law