

September 19, 2012

The Honorable Kathleen Sebelius, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Sebelius:

As organizations dedicated to the health of children and their families, we wish to provide comments on selected aspects of the application for a Section 1115 Medicaid waiver submitted by the state of Kansas on August 6, 2012. As you know, approximately one out of every three children in Kansas receives their health insurance through these public programs. Thus, substantial changes proposed to Medicaid will have a significant impact on children in Kansas.

1. Auto-assignment of Beneficiaries Limits Choice

The application states that *all* beneficiaries will not make an active choice of plans but rather will be assigned to a KanCare plan. Beneficiaries will have 45 days from the enrollment effective date of January 1 to change plans. While not explicitly stated in the waiver application, it seems that beneficiaries who enroll after January 1, 2013, will also be auto-assigned and then have 45 days during which they can change plans before they are locked in until the next open enrollment period.

We believe beneficiaries should be able to choose their plan upon enrollment, rather than being auto-assigned by the state. Currently, HealthWave beneficiaries self-select an MCO upon enrollment, and there has been no need demonstrated by the state to change this method of operation. Auto-assignment will limit families' ability to choose their own provider. We know of no state in the country where freedom of choice has been curtailed in this way.

Currently the federal standard allows 90 days for beneficiaries to switch MCOs after enrollment occurs. The state has provided no rationale for shortening this time period and we see no reason to shorten it. This is especially important given that three new MCOs will provide services under the waiver, none of which is currently serving HealthWave, and families will not be familiar with any differences between the plans and their provider networks.

2. Health Savings Account Proposal is Harmful to Children

On pages 14-15 of the Kansas waiver application, the state seeks to develop a pilot program to transition beneficiaries away from Medicaid. As outlined in the waiver application, a pilot project would be established to provide Medicaid beneficiaries with a funded health account "for the purpose of purchasing health services or paying health insurance premiums for members . . . who would not reapply for traditional Medicaid for the next three years."

Although the waiver application does not specify a dollar amount for the funded health account, budget documents produced by the Governor's budget office for the 2012 Legislative Session state an amount of \$2,000. Rather than serving as an "off-ramp", this proposal would represent a detour away from the benefit and cost-sharing protections to which children and families are entitled under Medicaid. It would lead them instead into private coverage where costs are unpredictable and coverage is often inadequate for those with low income, high health needs, or both.

High deductible health plans simply do not provide the access to care and the protections against unaffordable costs that Medicaid-eligible children and families generally require. Low-income populations are negatively and disproportionately impacted by the higher cost sharing that is characteristic of high-deductible plans. Evidence shows that cost-sharing causes low-income people to delay or reduce their use of needed care.

Furthermore, given the complexity of HSAs and the health literacy needed to effectively use HSAs, we are concerned that parents of low-income children may not fully understand the potential consequences of forfeiting Medicaid coverage. For children in particular, this would eliminate the guarantee of EPSDT coverage, a central tenet of Medicaid's coverage for children. Additionally, we believe it is highly unlikely that \$2,000 would be sufficient to cover premiums and cost-sharing for three years in addition to health expenses not covered by the plan.

3. Budget Neutrality Information Is Insufficient

We have two concerns regarding the budgetary aspect of Kansas' waiver application. First, there is insufficient information to understand fully the budget projections and calculations. Second, the application seems overly aggressive in the cost savings that will be found for children insured through Medicaid and CHIP and for pregnant women and deliveries.

We urge CMS to make public any additional documents Kansas provides regarding the cost calculations. Because the state of Kansas is already including projected savings under KanCare for fiscal year 2013 and beyond, we believe it is critical that advocates and policy makers have sufficient information to determine whether the projected savings will materialize.

The second concern relates directly to the cost savings projected for children. It appears that the state is assuming a lower per capita cost under the waiver for children enrolled in Medicaid and CHIP. Given that children have been in managed care for over a decade, it is unclear how the projected cost savings will be achieved.

Lastly, we are concerned about the proposed cost savings for deliveries. Based on the numbers provided in the waiver application, the state is assuming a savings of 9-10% for deliveries paid for by Medicaid. Importantly, both eligibility group 2 (Delivery) and eligibility group 12 (TAF) include deliveries, so it is difficult to track exactly what total cost savings the state is calculating. As with children, Medicaid

deliveries in Kansas are currently in managed care, raising questions about how 9-10% in cost savings will be achieved under the waiver.

Thank you for your attention to our concerns. We are not commenting at this time on the "Track 2" component of the state's proposal because it appears not to be under active consideration. Please contact Joan Alker or Joe Touschner at the Georgetown University Center for Children and Families if you have questions about the content of this letter.

Sincerely,

Children's Defense Fund
Easter Seals, Inc
First Focus
Georgetown University Center for Children and Families
LeadingAge
March of Dimes
National Association of Community Health Centers (NACHC)
National Association of Pediatric Nurse Practitioners
National Council for Community Behavioral Healthcare
National Health Law Program
The Bazelon Center for Mental Health Law
Voices for America's Children