

January 20, 2022

VIA ELECTRONIC SUBMISSION

Aaron Butler, Director of Policy
Division of TennCare
310 Great Circle Road
Nashville, TN 37243

RE: Proposed Maternal Health Enhancements to TennCare III Program

Dear Director Butler:

The undersigned organizations appreciate the opportunity to comment on the January 6, 2022 Notice of Change to the TennCare III Program relating to postpartum coverage. We strongly support the extension of postpartum coverage for 12 months following the end of pregnancy, but we urge the state not to impose cost sharing on prescription drugs during the postpartum period. We also urge the state to extend postpartum coverage through a State Plan Amendment rather than the TennCare III waiver. In addition, we strongly support the state's proposal to provide dental benefits to pregnant and postpartum women.

Extending Medicaid coverage through 12 months postpartum will improve maternal health outcomes for an estimated 22,000 new mothers in Tennessee each year.

Tennessee has provided notice that, effective April 1, 2022, it will provide 12 months of postpartum coverage following the end of pregnancy. According to estimates by the Assistant Secretary for Planning and Evaluation, this will benefit about 22,000 new mothers in Tennessee each year, reducing their risk of untreated postpartum depression, unaddressed opioid use disorder, and pregnancy-related death.¹ We strongly support this policy change.

Imposing cost sharing on prescription drugs during the postpartum period will create a barrier to access to needed medications, increasing the risk of poor maternal health outcomes.

Tennessee's notice states that during the extended period of postpartum coverage pregnant women "may be subject to nominal copays for prescription drugs." Imposition of cost sharing on postpartum women would undermine the maternal health benefits of extended coverage and be inconsistent with current federal requirements.

The research is clear that cost sharing is a barrier to access for low-income populations. A 2021 Kaiser Family Foundation research review of evidence from Medicaid 1115 waivers on the effects of cost sharing and premiums on Medicaid beneficiaries concluded that cost sharing is "associated with

¹ Gordon, S. *et al.* "Medicaid After Pregnancy: State-Level Implications of Extending Postpartum Coverage," (Washington: Assistant Secretary for Planning and Evaluation, December 7, 2021), available at <https://aspe.hhs.gov/sites/default/files/documents/cf9a715bc16234b80054f14e9c9c0d13/medicaid-postpartum-coverage-ib%20.pdf#page=16>.

reduced use of care, worse health outcomes, and increased financial burden.”² There is every reason to think that these conclusions apply to pregnant women during the postpartum period. Consider those women with postpartum depression, among the most common complications of pregnancy. According to the American College of Obstetrics and Gynecologists, prescription anti-depressants, along with talk therapy, are an effective treatment.³ Imposing cost sharing requirements on these drugs during the postpartum period will reduce their use by women who need them, leading to worse maternal health outcomes.

Under current Medicaid law, pregnant women are exempted from copayments on all services through the 60-day postpartum period, except for services specified in the State Plan as “not pregnancy-related.”⁴ These regulations were adopted before the enactment of the State Plan option to extend coverage through 12 months postpartum, and CMS has not yet issued guidance on the application of this exemption beyond 60 days. However, the state need not await CMS guidance. The reasons the State exempts women from cost sharing on prescription drugs during the first 60 days postpartum are equally applicable during the remainder of the 12-month postpartum period: improved access to prescription drugs for conditions like postpartum depression, better health outcomes, and decreased financial burden.

Extending dental coverage to pregnant women through the 12-month postpartum period will improve maternal health outcomes.

Tennessee has provided notice that, as of April 1, 2022, it will provide a dental benefits package for pregnant women for the duration of their pregnancy and postpartum coverage. We strongly support this policy change. It will improve oral health outcomes for both the mother and the baby. The American College of Obstetricians and Gynecologists recommends oral health care throughout a woman’s lifespan, including during pregnancy when women may be at higher risk for periodontal disease and cavities; improved oral health of pregnant women “may decrease transmission of potentially cariogenic bacteria to infants and reduce children’s future risk of caries.”⁵

Tennessee should extend postpartum coverage through 12 months without cost sharing, and extend dental benefits to pregnant women through the postpartum period, by amending its State Plan.

² Guth, M., Ammula, M., and Hinton, E. “Understanding the Impact of Medicaid Premiums & Cost-Sharing: Updated Evidence from the Literature and Section 1115 Waivers,” (Washington: The Henry J. Kaiser Family Foundation, September 9, 2021), available at <https://www.kff.org/medicaid/issue-brief/understanding-the-impact-of-medicaid-premiums-cost-sharing-updated-evidence-from-the-literature-and-section-1115-waivers/>.

³ “FAQs: Postpartum Depression,” American College of Obstetricians and Gynecologists, available at <https://www.acog.org/womens-health/faqs/postpartum-depression>.

⁴ 42 CFR 447.56(a)(1)(vii).

⁵ American College of Obstetricians and Gynecologists Committee Opinion, “Number 569: Oral Health Care During Pregnancy and Through the Lifespan,” (August 2013), available at <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2013/08/oral-health-care-during-pregnancy-and-through-the-lifespan>. See also: Daalderop, L.A. *et al.*, “Periodontal Disease and Pregnancy Outcomes: Overview of Systematic Reviews,” *JDR Clinical & Translational Research* 3, no. 1 (January 2018): 10-17, available at <https://doi.org/10.1177/2380084417731097>; and Finlayson, T., Gupta, A., and Ramos-Gomez, F., “Prenatal Maternal Factors, Intergenerational Transmission of Disease, and Child Oral Health Outcomes,” *Dental Clinics of North America* 61, no. 3 (2017): 483-513, available at <https://doi.org/10.1016/j.cden.2017.02.001>.

Tennessee’s January 6 notice indicates that the changes to pregnancy and postpartum coverage are being made under the terms of the TennCare III Demonstration. STC #6 permits the state to “add allowable benefits and coverage” without submitting an amendment to the Demonstration to CMS. We believe this procedural pathway puts these changes at unnecessary risk and urge the state to effect these changes by amending its State Plan.

The State Plan option is available for both sets of changes. The American Rescue Plan Act of 2021 (P. L. 117-2) gives states the option of providing 12 months of extended postpartum coverage to pregnant women enrolled in Medicaid beginning April 1, 2022.⁶ CMS has provided detailed guidance on how states can submit State Plan Amendments to take up the option.⁷ Similarly, federal regulations at 42 CFR 440.255(p) allow to provide “a greater amount, duration, or scope of services to pregnant women” than it provides to other groups of beneficiaries. Thus, Tennessee could extend a package of dental benefits to pregnant women through the postpartum period through a SPA, without the need for a waiver of comparability.

These State Plan options are on firm legal ground. The TennCare III Demonstration is not. Its “shared savings” financing, closed formulary, and 10-year duration are provisions that the Secretary does not have the authority to approve. We believe that the litigation currently pending against TennCare III will result in fundamental revisions to the Demonstration. Putting these changes at legal risk by tying them to TennCare III is both unnecessary and unwise.

Thank you for your consideration of these comments. If you need additional information, please contact Joan Alker (jca25@georgetown.edu).

American College of Obstetricians and Gynecologists
American Lung Association
Black Mamas Matter Alliance
Center for Law and Social Policy
Center for Reproductive Rights
Community Catalyst
Equitable Maternal Health Coalition
Families USA
First Focus on Children
Georgetown University Center for Children and Families
March of Dimes
Maternal Mental Health Leadership Alliance
Mental Health America
National Association of Pediatric Nurse Practitioners
National Birth Equity Collaborative
National Health Care for the Homeless Council
National Multiple Sclerosis Society
National Partnership for Women & Families
Planned Parenthood Federation of America

⁶ P. L. 117-2 (2021).

⁷ Center for Medicaid and CHIP Services, “SHO #21-007: Improving Maternal Health and Extending Postpartum Coverage in Medicaid and the Children’s Health Insurance Program (CHIP),” (December 2021), available at <https://www.medicaid.gov/federal-policy-guidance/downloads/sho21007.pdf>.

Primary Care Development Corporation
SisterReach
Tennessee Academy of Family Physicians
United Way Worldwide