



January 17, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Re: Nebraska Section 1115 Waiver

Dear Secretary Azar:

The Cystic Fibrosis Foundation appreciates the opportunity to submit comments on Nebraska's Medicaid Section 1115 Heritage Health Adult Expansion Demonstration. We urge the Centers for Medicare and Medicaid Services (CMS) to deny Nebraska's proposal to eliminate Medicaid retroactive eligibility and establish tiered benefit model for the Medicaid expansion population.

Cystic fibrosis is a rare, life-threatening genetic disease that affects approximately 270 people in Nebraska and roughly 15 percent of adults with CF rely on Medicaid for some or all of their health coverage. CF causes the body to produce thick, sticky mucus that clogs the lungs and digestive system, which can lead to life-threatening infections. Cystic fibrosis is both serious and progressive; lung damage caused by infection can be irreversible and have a lasting impact on length and quality of life. As a complex, multi-system condition, CF requires targeted, specialized treatment and medications.

People with cystic fibrosis need quality, affordable health coverage and Medicaid plays an important role in covering this population, filling gaps left by other insurers and helping people with CF afford vital medications and care. Medicaid expansion, as the voters approved in November, can increase the number of Nebraskans living with CF who have adequate coverage and in total, will expand coverage to 90,000 low-income Nebraskans across the state.

Unfortunately, this waiver lacks an evaluation plan and contains several problematic provisions, including onerous work requirements and a corresponding tiered benefit structure, and removal of retroactive eligibility. Additionally, this proposal will delay the implementation of Medicaid expansion until October of 2020, almost two years after voters approved the measure. This is unacceptable and will delay access to quality and affordable coverage for 90,000 Nebraskans.

Tiered Benefit Structure

The CF Foundation supports Nebraska's Medicaid expansion, but is concerned that some provisions in this waiver will limit the program's benefits.

The Heritage Health Adult Expansion Demonstration waiver creates a two-tiered benefit structure. Initially, all expansion enrollees will have the "Basic" plan but can qualify for the "Prime" plan if they

complete a set of wellness, personal responsibility, and work reporting requirements. The Prime plan includes all of the benefits of the Basic plan plus vision, dental, and over-the-counter drugs. In response to public commenters concerned about denial of services for some members, the state said in its waiver application to CMS that it views benefits included in the Prime plan as “extra benefits.” This ignores the fact that many of the Prime-covered services are critical components of care for many people, including those with CF. For example, some insurers require a vision examination for initial and continued coverage of CFTR modulators, a class of CF therapies that targets the underlying cause of the disease.

The requirements to receive the Prime benefit package are onerous. Patients have to “actively participate” in care and case management, which includes completing a health risk screening, completing a “social determinants of health” assessment, and routinely refilling prescriptions. Beneficiaries will have to comply with a personal responsibility requirement as well, which includes not missing more than three appointments within six months, maintaining commercial coverage if available, and notifying the state within 10 days of any eligibility changes related to Medicaid or benefit tiers. Additionally, starting in the second year of the demonstration, the expansion population between the ages of 21 and 59 must prove they work at least 80 hours per month or meet exemptions.

In its waiver application, the state refers to these community engagement and wellness requirements as “voluntary” incentives. Yet, this policy will decrease the number of individuals with Medicaid Prime coverage, as the state estimates that 40 percent of enrollees will not be able to comply with the requirements and will receive the Basic benefit rather than Prime benefit. We have seen this play out in Arkansas as well, which required Medicaid enrollees to report their hours worked or receive an exemption. During the first six months of implementation, the state terminated coverage for over 18,000 individuals and locked them out of coverage until January 2019.¹ Enrollees in Arkansas have found the reporting requirements confusing and added stress and anxiety to enrollees’ lives.² While Nebraska notes that beneficiaries will not be locked out of coverage due to failure to comply with requirements, decreasing coverage for vital services is unacceptable.

Removing Retroactive Coverage

As part of the 1115 waiver, Nebraska is asking to waive retroactive eligibility and start coverage on the first day of the month of the application. Retroactive eligibility in Medicaid prevents gaps in coverage by covering individuals for up to 90 days prior to the month of application, assuming the individual is eligible for Medicaid coverage during that time frame.

Retroactive eligibility is an important protection as individuals may be unaware they are eligible for Medicaid or need to renew their coverage until a medical event or new diagnosis occurs. For instance, a Medicaid enrollee may not have understood or received a notice of Medicaid renewal and only discovered the coverage lapse when picking up a prescription or going to see their doctor. In these cases, retroactive eligibility helps patients avoid substantial costs at their doctor’s office or pharmacy or gaps in care. When Ohio was considering a similar provision in 2016, a hospital consulting firm advised the state that hospitals could accrue as much as \$2.5 billion more in uncompensated care as a result of the waiver.³ Nebraska estimates that over 29,000 adults will lose retroactive coverage as a result of the waiver. The CF Foundation urges Nebraska to remove this provision from the waiver application.

Lack of Evaluation Plan

The proposed 1115 waiver currently lacks an evaluation plan. While the state claims it will create a robust evaluation plan, there is currently no evaluation information to review. The CF Foundation has

encouraged Nebraska to write and solicit feedback on an evaluation plan so the public can accurately comment on the proposal.

We urge CMS to approve Nebraska's Medicaid expansion without delay. However, this waiver should be modified to provide optimal care to all Medicaid enrollees by eliminating the tiered benefit approach and keeping retroactive coverage. Thank you for the opportunity to submit comments.

Sincerely,



Mary Dwight
Senior Vice President, Policy & Advocacy
Cystic Fibrosis Foundation



Lisa Feng, DrPH
Senior Director, Policy & Advocacy
Cystic Fibrosis Foundation

¹ Robin Rudowitz, MaryBeth Musumeci, and Cornelia Hall, "A Look at November State Data for Medicaid Work Requirements in Arkansas," Kaiser Family Foundation, December 18, 2018. Available at: <https://www.kff.org/medicaid/issue-brief/a-look-at-november-state-data-for-medicaid-work-requirements-in-arkansas/>; Arkansas Department of Health and Human Services, Arkansas Works Program, December 2018. Available at: http://d31hzhk6di2h5.cloudfront.net/20190115/88/f6/04/2d/3480592f7fbd6c891d9bacb6/011519_AWReport.pdf

² Musumeci, MaryBeth, Robin Rudowitz, Barbara Lyons. Medicaid Work Requirements in Arkansas: Experience and Perspectives of Enrollees. Kaiser Family Foundation. Dec 18, 2018. Available at: <https://www.kff.org/medicaid/issue-brief/medicaid-work-requirements-in-arkansas-experience-and-perspectives-of-enrollees/>

³ Virgil Dickson, "Ohio Medicaid waiver could cost hospitals \$2.5 billion", Modern Healthcare, April 22, 2016. (<http://www.modernhealthcare.com/article/20160422/NEWS/160429965>)