

Centers for Medicare & Medicaid Services (CMS)
Special Terms and Conditions

Project Number: 11-W-00232/6
Project Title: Take Charge (Family Planning Demonstration)
State: State of Louisiana

General Financial Requirements

1. All requirements of the Medicaid program expressed in law not expressly waived or identified as not applicable in the demonstration award letter of which these Special Terms and Conditions (STCs) are part, will apply to the Louisiana Section 1115 Family Planning Demonstration.
 - a. The State must, within the time specified in law, regulation, or policy directive, come into compliance with any changes in Federal law, regulation, or policy that occur after the approval date of this demonstration, unless the provision being changed is explicitly waived under the STCs herein governing the demonstration. This requirement shall apply to all regulation and policy issued by CMS with respect to the Deficit Reduction Act of 2005 (DRA) including, but not limited to, the documentation of citizenship requirements contained in section 1137 of the Social Security Act (the Act).
 - b. To the extent that changes in the enforcement of such laws, regulations, and policy statements would have affected State spending without the demonstration, in ways not explicitly anticipated in this agreement, CMS will incorporate such effects into a modified budget limit for this section 1115 Family Planning Demonstration program. The modified budget limit would be effective upon implementation of the change in Federal law, regulation, or policy statement. If the law, regulation, or policy statement cannot be linked specifically with program components that are or are not affected by the section 1115 Family Planning Demonstration (e.g., laws affecting sources of Medicaid funding and/or all disallowances involving provider taxes or donations), the effect of enforcement on the State's budget limit will be proportional to the size of the section 1115 Family Planning Demonstration in comparison to the State's entire Medicaid program (as measured in aggregate medical assistance payments). In addition, the State will submit its methodology to CMS for complying with the change in law. If the methodology is consistent with Federal law and in accordance with Federal projections of the budgetary effects of the new law in Louisiana, CMS would approve the methodology. Should CMS and the State, working in good faith to ensure State flexibility, fail to develop within 90 days of the implementation of the change in Federal law a methodology to revise the without-demonstration baseline that is consistent with Federal law and in accordance with Federal budgetary projections, a reduction in Federal payments will be made according to the method applied in non-demonstration States.
 - c. The State may submit to CMS a request for an amendment to the section 1115 Family Planning Demonstration to request exemption from changes in law occurring after the approval date of the demonstration. The cost to the Federal Government of such an

amendment must be offset to ensure that total projected expenditures under a modified section 1115 Family Planning Demonstration do not exceed projected expenditures in the absence of the family planning section 1115 Family Planning Demonstration (assuming full compliance with the change in law).

d. Budget Neutrality Monitoring Procedures (See Attachment A).

2. The following financial reporting procedures must be adhered to:

The State will report quarterly expenditure reports using Form CMS-64 to separately report expenditures for those receiving services under the Medicaid program and those participating in the demonstration. CMS will provide Federal financial participation (FFP) only for allowable demonstration expenditures that do not exceed the predefined limits as specified in Attachment A. Demonstration participants include all individuals who obtain one or more covered medical family planning service(s) through the demonstration.

- a. In order to track expenditures under this demonstration, Louisiana will report expenditures through the Medicaid and State Children's Health Insurance Program Budget and Expenditures System (MBES/CBES), following routine CMS-64 reporting instructions outlined in section 2500 of the State Medicaid Manual. All expenditures subject to the budget neutrality cap shall be reported on separate Forms CMS-64.9 Waiver and/or 64.9P Waiver, identified by the demonstration project number assigned by CMS (including the project number extension, which indicates the demonstration year (01. . .05) in which services were rendered or for which capitation payments were made). For monitoring purposes, cost settlements attributable to the expenditures subject to the budget neutrality cap must be reported on line 10B, in lieu of lines 9 or 10C.
- b. The Federal share for demonstration expenditures matched at the State's regular match rate should be reported using column (B) of Form CMS 64.9 Waiver and/or 64.9P Waiver and in column (D) for services eligible for the family planning match rate of 90 percent.
- c. All claims for Louisiana's family planning services provided during the demonstration period (including any cost settlements) must be made within 2 years after the calendar quarter in which the State made the expenditures. During the 2-year period following the conclusion or termination of the demonstration, the State must continue to separately identify demonstration expenditures using the procedures outlined above in order to properly account for these expenditures in determining budget neutrality.
- d. Administrative costs will not be included in budget neutrality; however, the State must separately track and report administrative costs attributable to the demonstration on Form CMS-64.10 Waiver and/or 64.10P Waiver.
- e. The State will provide to CMS, on a yearly basis, the average total Medicaid expenditures for a Medicaid-funded birth. The cost of a birth includes prenatal services and delivery, pregnancy-related services, and services to infants from birth up to age 1. (The services should be limited to the services that are available to women who are eligible for Medicaid because of their pregnancy and their infants.)

- f. The State will submit to CMS, on a yearly basis, the number of actual births that occur to demonstration participants (as noted in 2.a., participants include all individuals who obtain one or more covered medical family planning service(s) through the demonstration).
 - g. The Louisiana Medicaid office must institute a data sharing relationship with the State Agency that performs the calculation of the vital statistics in order to ensure State compliance with the birth data reporting requirements under the demonstration. The State must notify CMS if birth data will not be available within 3 months of the end of each demonstration year.
 - h. The State will assure CMS that no duplicative Federal payments will be made for individuals who are enrolled in the State's regular Medicaid program or any other Federally funded program (i.e., title X or title XXI). The State will not use title XIX funds to pay for individuals enrolled in regular Medicaid or any other Federally funded program who seek services under the section 1115 Family Planning Demonstration, if the State is already covering the costs of services for that individual under any of these other programs.
3. The standard Medicaid funding process will be used during the demonstration. Louisiana must continue to estimate total matchable Medicaid expenditures for the entire program on the quarterly Form CMS-37. The State must provide supplemental schedules that clearly distinguish between matchable demonstration expenditure estimates (by major component) and non-demonstration Medicaid expenditure estimates. CMS will make Federal funds available each quarter based upon the State's estimates, as approved by CMS.

Within 30 days after the end of each quarter, the State must submit the Form CMS-64 quarterly Medicaid expenditure report, showing Medicaid expenditures made in the quarter just ended. CMS will reconcile expenditures reported on the Form CMS-64 with Federal funding previously made available to the State for that quarter, and include the reconciling adjustment in the finalization of the award to the State.

- 4. CMS will provide FFP at the appropriate 50 percent administrative match rate for general administration costs, such as, but not limited to, claims processing, eligibility assistance and determinations, outreach, program development, and program monitoring and reporting.
- 5. The State will certify that State/local monies are used as matching funds for demonstration purposes and will further certify that such funds will not be used as matching funds for any other Federal grant or contract, except as permitted by Federal law.
- 6. FFP for services (including prescriptions) provided to women under the section 1115 Family Planning Demonstration will be available at the following rates and as described in Attachment B:
 - a. For services whose primary purpose is family planning (i.e., contraceptives and sterilizations), FFP will be available at the 90 percent matching rate. Procedure codes for

office visits, laboratory tests, and certain other procedures must carry a diagnosis that specifically identifies them as family planning services.

- b. FFP will not be available for the costs of any services, items or procedures that do not meet the requirements specified above, even if family planning clinics or providers provide them. For example, in the instance of testing for sexually transmitted infections (STI) as part of a family planning visit, the match rate would be 90 percent. The match rate for the subsequent treatment would be the regular Federal Medical Assistance Percentage rate. For testing or treatment not associated with a family planning visit (e.g., those provided at a public STI clinic), no match would be available.

Administrative Reports and Deliverables

7. The State will submit narrative progress reports 30 days following the end of each demonstration quarter. The fourth quarterly report of every demonstration year will summarize the preceding demonstration year's activity and serve as the annual report. The format for these reports will be decided upon by CMS and the State. The annual report will be due 90 days following the end of the fourth quarter of each project year. CMS reserves the right to request the annual report in draft for prior review.
8. The State will report to CMS, on a quarterly basis, the number of individuals enrolled in the demonstration at that point in time, as well as the number receiving services during the quarter. This information should be included in the quarterly narrative progress report provided to CMS.
9. Within 30 days from the date of approval of the demonstration, the State shall demonstrate to CMS how enrollees potentially eligible for Medicaid or SCHIP are notified that they may be eligible (for Medicaid or SCHIP) so that these enrollees make an informed decision to enroll in the family planning demonstration instead of the State's Medicaid or SCHIP program.
10. Within 60 days from the date of approval of the demonstration, the State will provide to CMS for approval an appropriate methodology for ensuring the integrity of initial and annual eligibility re-determination of individuals covered under the section 1115 Family Planning Demonstration based on income at or below 200 percent of the Federal poverty level. This methodology will include a description of periodic sampling to ensure the integrity of all self-reported information, including income.
11. Within 60 days from the date of approval of the demonstration, the State will provide to CMS an evaluation plan for approval that ensures the integrity of eligibility determinations, to be conducted on an annual basis. This evaluation plan will include an eligibility determination error rate methodology with a corrective action plan.
12. The State will provide to CMS an updated list of current procedural terminology and HCPCS codes covered under the demonstration on January 31st of each demonstration year. This revised code list should reflect only changes due to updates in these codes and should only include codes for which the State has already received approval.

13. No later than 180 days prior to the end of the demonstration award period, Louisiana shall submit a draft final report to the CMS project officer for comments. The final report will incorporate all CMS comments and evaluation findings. The final report shall also contain a disclaimer that the opinions expressed are those of the State and do not necessarily reflect the opinions of CMS. The final report is due 90 days after the end of the demonstration award period. The final demonstration report may not be released or published without permission from the CMS project officer, except as required by law, within the first 4 months following receipt of the report by the CMS project officer.
14. Louisiana will notify the CMS project officer before formal presentation of any report or statistical or analytical material based on information obtained through this cooperative agreement. Formal presentation includes papers, articles, professional publications, speeches, and testimony. During this research, whenever the State or its designee determines that a significant new finding has been developed, he/she will immediately communicate it to the CMS project officer before formal dissemination to the general public.
15. The State will assume responsibility for the accuracy and completeness of the information contained in all technical documents and reports submitted. The CMS project officer will not direct the interpretation of the data in preparing these documents and reports.
16. At any phase of the demonstration, including the demonstration's conclusion, the State, if so requested by the project officer, must submit to CMS analytic data file(s), with appropriate documentation, representing the data developed/used in end-product analyses generated under the demonstration. The analytic file(s) may include primary data collected or generated under the demonstration and/or data furnished by CMS. The content, format, documentation, and schedule for production of the data file(s) will be agreed upon by the State or its designee and the CMS project officer. The negotiated format(s) could include both the file(s) that would be limited to CMS internal use and the file(s) that CMS could make available to the general public.
17. At any phase of the demonstration, including the demonstration's conclusion, the State, if so requested by the project officer, must deliver any materials, systems, or other items developed, refined, or enhanced during or under the demonstration to CMS. The State agrees that CMS will have royalty-free, nonexclusive, and irrevocable rights to reproduce, publish, or otherwise use and authorize others to use such materials, systems, or items for Federal Government purposes.
18. A phase-out plan for the demonstration needs to be submitted to CMS for approval within 90 days of the award of the demonstration. The phase-out plan must address the fact that the State is responsible for informing enrollees that the demonstration will end 5 years from the beginning date.
19. The State shall submit a revised and updated implementation schedule to CMS within 30 days from the award of the demonstration. The revised schedule will include the implementation of the evaluation of the demonstration and other requirements described in these STCs.

Eligibility Redeterminations

20. The State will ensure that redeterminations of eligibility for this demonstration are conducted, at a minimum, once every 12 months. The process for eligibility redeterminations shall not be passive in nature, but will require that an action be taken by the section 1115 Family Planning Demonstration recipient. Louisiana may satisfy this requirement by having the recipient sign and return a renewal form to verify the current accuracy of the information previously reported to the State.

Primary Care Referral and Evaluation

21. The State shall facilitate access to primary care services for enrollees in the Medicaid Section 1115 Family Planning Demonstration. The State shall submit to CMS a copy of the written materials that are distributed to the family planning demonstration participants as soon as they are available. The written materials must explain to the participants how they can access primary care services. In addition, the State must evaluate the impact of providing referrals for primary care services as described in the State's demonstration evaluation design.
22. Should CMS conduct an independent evaluation of section 1115 Family Planning Demonstrations the State will cooperate fully with CMS or the independent evaluator selected by CMS, to assess the impact of the Medicaid demonstrations and/or to examine the appropriateness of the averted birth budget neutrality methodology. The State will submit the required data to CMS or its contractor.
23. Family planning expenditures under the Medicaid program have increased in recent years and CMS is interested in monitoring these expenditures. Thus, as part of our overall monitoring of the demonstration, CMS will also be monitoring the rate in expenditure growth for family planning services. This monitoring will be done on a per capita basis, using total expenditures recorded during the first year of the demonstration as a baseline. As a frame of reference we will be comparing the annual rate of growth of actual expenditures with the baseline amount trended forward using Consumer Price Index (CPI) Medical. The comparison of actual per capita expenditures over the life of the demonstration and per capita expenditures trended using CPI Medical will be considered if the State should seek an extension of their family planning demonstration.

In addition, a federally-contracted evaluation will examine the appropriateness of the budget neutrality methodology of these demonstrations by assessing the births that have been averted as a result of the demonstrations, the data sources currently used to assess averted births and budget neutrality, and expenditures overall. Based on the evaluation findings and other information, CMS reserves the right to negotiate a new budget neutrality methodology, if CMS deems appropriate. Such a methodology change could range from a change in data sources used to determine budget neutrality, to a total change in methodology, such as incorporating a per capita cap like the one described above. Any and all changes to the budget will be made in full consultation with the State, including expenditure data used in the methodology.

Suspension/Termination of Demonstration

24. Failure to operate the demonstration as approved and according to Federal and State statutes and regulations will result in withdrawal of approval for the demonstration. The Federal statutes and regulations with which the State must comply in the operation of the demonstration include civil rights statutes and regulations that prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and religion, including Privacy Rules at 45 CFR Parts 160 and 164, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, title II of the Americans with Disabilities Act, and the nondiscrimination provisions of the Omnibus Budget Reconciliation Act of 1980.
25. CMS may suspend or terminate any demonstration in whole, or in part, any time before the date of expiration, whenever it determines that the State has materially failed to comply with the terms of the demonstration. CMS will promptly notify the State in writing of the determination and the reasons for the suspension or termination, with the effective date. The budget neutrality test will be applied from the date of implementation through the date of termination, without adjustment.
26. CMS reserves the right to unilaterally terminate the demonstration and the accompanying Federal matching authority if CMS determines that continuing the demonstration would no longer be in the public interest. If a section 1115 Family Planning Demonstration is terminated by CMS, the State will be liable for cumulative costs under the demonstration that are in excess of the cumulative target expenditures specified in the "Expenditure Review" section of Attachment A for the demonstration year of withdrawal.
27. If after the demonstration approval, CMS and the State cannot reach agreement on any item(s) cited in this document either party has the right to terminate the agreement subject to the termination/phase-out terms outlined above.