DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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CENTERS for MEDICARE & MEDICAID SERVICES

Center for Medicaid and State Operations

SMDL# 10-005
PPACA # 1

April 9, 2010

Re: New Option for Coverage of Individuals under Medicaid

Dear State Health Official:
Dear State Medicaid Director:

This letter is one of a series intended to provide guidance on the implementation of the health insurance reform legislation, the Patient Protection and Affordable Care Act (the Affordable Care Act); P. L. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010; P. L. 111-152. Specifically, this letter provides initial guidance on ***Section 2001 of the Affordable Care Act: Medicaid Coverage for the Lowest Income Populations***, which establishes a new eligibility group and the option for States to begin providing medical assistance to individuals eligible under this new group as of April 1, 2010. Under the law, for the first time since the Medicaid program was established, States will receive Federal Medicaid payments to provide coverage for the lowest income adults in their States, without regard to disability, parental status or most other categorical limitations, under their State Medicaid plans.

The New Eligibility Group

Section 2001(a)(1) (as amended by section 10201) of the Affordable Care Act, establishes a new eligibility group that all States participating in Medicaid must cover as of January 2014. As discussed below, section 2001(a)(4) adds a new subsection (k)(2) of section 1902 of the Social Security Act (the Act), which permits States to cover this group of individuals at State option, or to phase-in coverage of the group based on income, beginning April 1, 2010.

Specifically, section 2001(a)(1) establishes a new eligibility group (VIII) under section 1902(a)(10)(A)(i) of the Act. The new group fills in the gaps in existing Medicaid eligibility by making eligible very-low income individuals who are not otherwise eligible under mandatory eligibility categories. Thus, the law describes the individuals eligible under the new group as those who are not:

- Age 65 or older;
- Pregnant;
- Entitled to or enrolled in benefits under Medicare Part A;
- Enrolled under Medicare Part B; or

- Described in any of the other mandatory groups in the statute (subclauses (I) – (VII) of section 1902(a)(10)(A)(i) of the Act), such as certain parents, children, or people eligible based on their receipt of benefits under the Supplemental Security Income (SSI) program.

The Centers for Medicare & Medicaid Services (CMS) will be issuing additional guidance on other provisions contained in Section 2001 of the Affordable Care Act at a later date.

State Option Until 2014

Under section 1902(k)(2) of the Act, until 2014, States may elect to "phase-in" coverage for this new eligibility group at any time, effective April 1, 2010. This means that States do not have to wait until January 2014 to cover adults they have previously had no authority to cover under a State plan, including adults under age 65 who are neither disabled, pregnant, nor living with dependent children and who do not have other special circumstances. Depending on the categories and income levels a State now covers and the income level a State decides to set for the new group under the 1902(k)(2) option, the new group also could include other low-income adults, including parents and individuals with disabilities who do not receive SSI.

For example, if a State has not otherwise expanded coverage for parents or people with disabilities up to an income level of 100 percent of the Federal poverty level (FPL), and it adopts the 1902(k)(2) option up to that income level, the new group would include adults not eligible under other categories, including some parents and people with disabilities. By contrast, if a State already covers parents and people with disabilities with incomes up to 100 percent of the FPL and implements the 1902(k)(2) option up to that income level, the individuals eligible under the new option generally would be limited to the childless adults ineligible under the other categories.

Federal Matching of State Expenditures for New State Option

In calendar year 2014, when the new eligibility group described at section 1902(a)(10)(a)(i)(VIII) is mandatory for all States participating in Medicaid, States will receive an increased matching rate for certain individuals in this new eligibility group (CMS will issue separate guidance on the matching rate provisions in the new health insurance reform legislation). Taking up the optional early expansion does not preclude or in any way affect receipt of the increased matching rate (based on the requirements in effect when this group becomes mandatory in 2014). Until January 2014, States that adopt the new section 1902(k)(2) coverage option will receive Federal matching payments at their regular Federal medical assistance percentage (FMAP). The increased FMAP determined under the American Recovery and Reinvestment Act of 2009 is not available for this new optional group.

Financial Eligibility Under the New Option

Because the option provided under section 1902(k)(2) allows States to phase in the extension of eligibility based on income, States can set the income eligibility standard for the new group at any level up to 133 percent of the FPL, applicable to a family of the size involved. A State cannot cover higher income people within this new group before covering lower income people within the group. There is no asset test for this new eligibility group.

Eventually, most groups covered in the Medicaid program will have their income eligibility calculated using a Modified Adjusted Gross Income (MAGI) -based method. However, that method for calculating income in the Medicaid program will not be required until 2014. In the interim, section 1902 of the Act requires States to use methods of determining income that are reasonable, consistent with the objectives of the Medicaid program, simple to administer, and in the best interests of the beneficiary. For purposes of implementing the section 1902(k)(2) option, we believe the SSI program's rules (which are currently used in Medicaid for determining income eligibility for people with disabilities) meet these criteria. Like the individuals covered under the SSI-related Medicaid eligibility category, many of the individuals eligible under the new group will be adults without children and many will have disabilities or chronic illnesses. The SSI program provides for a number of income disregards specifically applicable to persons with disabilities that are not available under other program methodologies. States may also elect to use less restrictive income methodologies than are used under SSI. Any less restrictive methodology should be available to all members of the group.

While the rules of the SSI program are an example of a methodology that we believe meets the requirements for approval of a State plan amendment implementing the section 1902(k)(2) option to cover the new group, this does not preclude States from submitting State plan amendments (SPAs) describing other methodologies they believe also meet those requirements. We encourage States considering the use of other methodologies to discuss them with CMS before actually submitting a SPA.

Benefits Available to Individuals in the New Group

Under PPACA, the medical assistance provided to an individual in the new eligibility group must consist of benchmark coverage described in section 1937(b)(1) of the Act or benchmark-equivalent coverage described in section 1937(b)(2) (as amended by section 2001(c) of the Affordable Care Act) unless the individual is exempt from mandatory enrollment in a benchmark benefit plan. Benchmark rules apply to the new group whether or not the State has otherwise elected the option to provide benchmark benefit coverage under its State plan. Individuals in the new group who are exempt from mandatory enrollment in a benchmark benefit plan must receive medical assistance under the State's currently approved plan. Others must be provided with benchmark or benchmark-equivalent coverage, including Secretary-approved benchmark coverage described in section 1937(b)(1)(D). Consistent with the provisions of section 1937, children covered under the new group must receive all Early and Periodic Screening, Diagnostic and Treatment services.

Other Applicable Rules

All rules applicable under the Medicaid program in general apply to this new eligibility group, including rules relating to cost sharing and immigration status. The Affordable Care Act also includes an additional requirement applicable to this new group, which is that if a parent of a child under age 19 (or such higher age as the State may elect) meets the requirements for eligibility under the new group, the parent may not be enrolled in that group unless the child is also enrolled under the State plan, under a waiver of the plan, or in other health insurance coverage. For purposes of this requirement, "parent" includes a caretaker relative as defined for purposes of section 1931 of the Social Security Act.

Submission of State Plan Amendments

To implement the 1902(k)(2) option to cover this new eligibility group, States should submit an amendment to their State Medicaid plans. We are ready to work with States interested in adopting this new option and will be issuing a draft SPA preprint template in the near future. In the meantime, States wishing to elect this new option effective on April 1, 2010 should submit a SPA no later than June 30, 2010. States that wish to have an effective date after April 1, 2010 are not required to meet the June 30, 2010 deadline.

We look forward to our continuing work together as we implement this important legislation.

Sincerely,

/s/

Cindy Mann
Director

cc:

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