

## **NHeLP's Capital Communique OCTOBER 2010**

This issue is part of a series of periodic reports from the National Health Law Program's Washington office, reporting briefly on recent and forthcoming developments in federal policy of interest to NHeLP advocates and friends. We always appreciate your feedback and comments. Please send them to Deborah Reid at [reid@healthlaw.org](mailto:reid@healthlaw.org).

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#### **HHS UPDATES**

*CMS Proposed Rule on Approval Process for Section 1115 Demonstrations -- Comments Due by November 16*

On September 17, the Centers for Medicare & Medicaid Services (CMS) issued a proposed rule for public comment, the Medicaid Program -- Review and Approval Process for Section 1115 Demonstrations ("waivers"). Section 1115 of the Social Security Act permits the HHS Secretary to waive certain Medicaid or CHIP requirements for experimental, pilot, or demonstration projects. States have used 1115 waivers in a variety of ways, such as expanding eligibility for certain Medicaid or CHIP services to populations otherwise not eligible, requiring enrollment limits, and imposing cost-sharing provisions that exceed statutory requirements.

Congress and other stakeholders have expressed concern about the need for greater transparency of the submission, review, and approval process of states' 1115 waiver applications. The proposed rule implements a provision of the Patient Protection and Affordable Care Act of 2010 (PPACA) to ensure public transparency of the waiver process. Among various provisions, the proposed rule:

- requires the HHS Secretary to develop a process for coordinating and consolidating state waiver processes that apply under PPACA, Medicaid, CHIP or other federal laws relating to providing health care services;
- requires states to provide public notice and at least a 30-day comment period before the states' submission of a new waiver application or an extension of an existing waiver program. In addition to other requirements, the notice must include a summary program description, eligibility requirements, and locations of at least two state convened public hearings to obtain public input;
- includes a requirement for CMS to formally notify a state in writing within 15 days of receipt of a completed application, which begins a federal 30-day public comment period (in addition to the state public comment period prior to submission of the waiver application);
- establishes mechanisms for notifying interested parties through an electronic mailing list and publishing regular status updates of waiver applications on the CMS website;
- requires states to conduct periodic evaluations of the implementation of its waiver programs;
- permits CMS to review, investigate, and document complaints that a state failed to comply with specified conditions of the waiver program; and
- mandates that states must submit an annual report to CMS documenting any difficulties that occur in operating the waivers, outcomes of care, and any state legislative developments that impact the waivers.

Comments on the proposed rule must be submitted by November 16. For the complete proposed rule, [click here](#).

*CMS Proposed Rule for Screening Requirements, Temporary Enrollment Moratoria, and Compliance Plans for Providers and Suppliers -- Comments Due by November 16*

On September 23, CMS issued a proposed rule to implement certain PPACA provisions impacting Medicare, Medicaid and CHIP programs. Among other provisions, the proposed rule:

- requires the Secretary of HHS to determine the level of screening necessary to combat fraud, waste, and abuse among providers of medical services or supplies, including licensure checks, unscheduled and unannounced visits, and database and background checks;
- deactivates the enrollment of providers in the Medicaid program who have not submitted any claims or referrals in 12 consecutive months, and requires deactivated providers who seek reinstatement to submit to the same disclosures and screening practices as new provider applicants;
- permits the Secretary of HHS to consult with states when imposing temporary enrollment moratoria of new Medicare, Medicaid, or CHIP providers and suppliers in states to prevent fraud, waste, and abuse; and
- requires states to comply with the Secretary's temporary enrollment moratoria of new providers unless states can establish an exception by determining that the moratoria would adversely affect enrollees' access to medical assistance.

Comments on the proposed rule must be submitted to CMS by November 16. [Click here](#) for

the complete  
*Federal Register*  
notice.

### *Connecting Kids to Coverage Challenge*

On September 3, HHS Secretary Kathleen Sebelius and Department of Education Secretary Arne Duncan announced a coalition of partners working to enroll five million eligible but uninsured children in Medicaid and CHIP within five years. In the "Connecting Kids to Coverage Challenge," HHS will provide technical assistance and funding to promote strategies for enrolling uninsured children. These strategies may include providing 12 months of continuous eligibility for Medicaid or CHIP to reduce the likelihood of children fluctuating between enrollment and disenrollment. For further details on the Challenge, [click here](#).

### *HHS Announces New Resources to Support the National HIV/AIDS Strategy*

On September 24, HHS Secretary Sebelius announced \$30 million for the Centers for Disease Control and Prevention to expand HIV/AIDS prevention efforts of the National HIV/AIDS Strategy. State and local health departments will receive some of this funding to focus prevention efforts on high-risk populations and communities, fill data gaps in prevention strategies, and support evaluation and monitoring of prevention approaches. For more information on the Secretary's announcement, [click here](#).

### *HHS Awards \$27 Million to Support Pregnant and Parenting Teens and Women*

PPACA authorized the Secretary of HHS to collaborate with the Secretary of the Department of Education to support programs for pregnant and parenting teens and women. On September 28, HHS Secretary Sebelius announced the award of \$24 million to 17 states and tribes through the establishment of a Pregnancy Assistance Fund, and \$3 million to 13 tribes, tribal organizations, and urban Indian organizations through the Tribal Maternal, Infant, and Early Childhood Home Visiting Grant Program.

These competitive grant funds will:

- assist states in providing coordinated services to ensure access to Medicaid, CHIP, family planning, and maternal and child health programs;
- support pregnant and parenting teens at schools and service centers so they can complete their high school education;
- assist states and tribes in supporting pregnant and parenting student services at institutions of higher learning;
- assist tribes in developing and implementing culturally relevant and evidence-based home visiting programs to coordinate and deliver health and support services to "at risk" children and families in tribal communities;

- improve services for pregnant women who are survivors of domestic violence, sexual assault or stalking; and
- increase public awareness and education.

For more details on the grant awards, [click here](#).

### *National Coordinator for HIT Announces the Completion of Regional Extension Centers to Assist Providers in Transitioning to Electronic Health Records*

On September 28, David Blumenthal, M.D., National Coordinator for Health Information Technology, announced the selection of the remaining Regional Extension Centers (RECs) that will assist providers, hospitals and clinics to transition from paper-based medical records to electronic health records (EHRs). This final selection of RECs completes the national system of 62 organizations that will provide assistance to eligible primary care providers, rural hospitals, and public health clinics to use EHRs to improve patient care, as well as serve as a resource for all providers in a particular area upon request.

The Health Information Technology Economic and Clinical Health (HITECH) Act authorized the creation of RECs by providing an estimated \$2 billion in new programs to provide training and technical assistance and demonstrate how HIT can contribute to improving health care.

[Click here](#) for the news release on RECs.

### *HHS Awards \$16.8 Million to Train Public Health Workforce*

On September 13, HHS Secretary Sebelius provided details on \$16.8 million awarded to 27 Public Health Training Centers (PHTC) at schools of public health and other public and nonprofit institutions. PHTC programs benefit the public health system by improving the skills of the public health workforce. Grantees will plan, develop, operate, and evaluate projects that support goals established by the Secretary (such as disease prevention, health promotion, and preventive medicine) or improve access to and quality of health in medically underserved communities. In addition, the PHTCs will determine the learning needs of the public health workforce, provide assessable training, and assist organizations in addressing resource needs. For further details, [click here](#).

## **RESOURCES**

*NHeLP, Health Reform Advocacy Webinar Series.* This series of webinars will provide important information on how PPACA impacts low-income and underserved communities and offer proposed solutions to some of the challenges presented in the health reform law. For more details on the webinar series, and registration information,

[click here](#)

. Upcoming webinars are on children's health, women's reproductive health, home and

community-based options, and addressing health disparities.

*Kaiser Family Foundation, State Health Facts.* Statehealthfacts.org has updated data on Medicaid and CHIP, Women's Health, Demographics and the Economy, Health Status, Health Insurance and Managed Care, Teen Birth Rates, and Providers and Service Use. For these updates, [click here](#).

## **FACTOID**

*The Journal of the American Medical Association* recently published a Harvard University and Massachusetts General Hospital research study entitled "Relationship Between Patient Panel Characteristics and Primary Care Physician Clinical Performance Rankings." According to the study, primary care physicians who serve a majority of underinsured, minority, and non-English speaking communities receive lower clinical Health Plan Employer and Data Information Set (HEDIS) performance rankings than those providers who serve less vulnerable patients. In a Medscape article explaining the results, the authors stated that "lack of adjustment for patient panel characteristics may penalize physicians for taking care of more vulnerable patients, incentivize physicians to select patients to improve their quality scores, and result in the misallocation of resources away from physicians taking care of more vulnerable populations."

[Click here](#)  
for an abstract of the study.