

Janice K. Brewer, Governor
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Our first care is your health care
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

November 9, 2012

Cynthia Mann, Deputy Administrator
Center for Medicare & Medicaid Services
Director
Center for Medicaid, CHIP, and Survey and Certification
7500 Security Boulevard, Mail Stop: S2-26-12
Baltimore, MD 21244

Dear Ms. Mann:

The Arizona Health Care Cost Containment System (AHCCCS) formally submits the attached amendment to its 1115 Waiver to extend the State's authority to provide Medicaid coverage to "Childless Adults" beyond 2013 and to apply the enhanced federal match for expansion states toward the cost of that coverage.

In 2000, Arizona voters passed Proposition 204 demonstrating Arizonans' belief that it is in the best interest of the State to expand Medicaid coverage to all citizens with incomes up to 100% of the federal poverty level (FPL). This coverage expansion makes Arizona one of only six states to cover Childless Adults in the Medicaid program. It is crucial to recognize that more than a decade ago Arizona was at the forefront in providing medical assistance to the hundreds of thousands of members of this vulnerable population. While states that have never covered Childless Adults can obtain 100% federal funding for this population in 2014, Arizona's citizens are penalized for having elected to provide AHCCCS coverage to all Arizonans under 100% FPL.

As you are aware, the Affordable Care Act (ACA) does not treat all states equitably. The resulting loss in federal funding associated with having provided coverage to Childless Adults since 2001 is enormous. Obtaining the enhanced Federal Medical Assistance Percentage (FMAP) for the State's Childless Adult population is imperative if state policymakers are to consider restoration of Prop. 204. In fact, restoring coverage to Childless Adults under the enhanced FMAP versus the regular FMAP makes a difference of about \$1.5 billion to the State's General Fund over four years. If Arizonans had not expanded coverage to Childless Adults like so many other states, the four-year cost for this population would be \$57 million. Additionally, as a result of this issue, Arizona is in the unique position of having to incur incredible state costs (\$928 million over four years) to restore coverage even with enhanced match.

Since the Supreme Court decision made Medicaid expansion optional for states, Governor Brewer and AHCCCS staff have conducted extensive stakeholder engagement. AHCCCS staff has conducted seven public forums across rural and urban Arizona and held tribal consultations both on this proposal as well as on the future of Medicaid. Throughout all of these forums, the most prevalent theme expressed by stakeholders is the need for the State to address the enrollment freeze currently in place for Childless Adults covered under Prop. 204. The State appreciates this feedback and is submitting this waiver proposal in response to broad community support for pursuing state flexibility.

This waiver proposal is not designed as a policy statement. The waiver language tracks the language within the Prop. 204 initiative that Childless Adult coverage be extended under AHCCCS within available resources. This proposal also should not be viewed as a request for a partial expansion. Arizona citizens already mandated a Medicaid expansion over ten years ago. The ACA already categorizes Arizona as an expansion state. Rather, this proposal is designed to protect the State's current authority to maintain coverage for the Childless Adult population into 2014 and to offer enhanced tools to state policymakers tasked with deciding the future of Medicaid in Arizona.

The State's aim in submitting this waiver proposal is to:

- (1) **Preserve the State's ability to cover Childless Adults in the Medicaid program.** As you know, the State's authority to provide Childless Adult coverage terminates December 31, 2013. This termination coupled with the options made available to states by the Supreme Court decision with respect to Medicaid eligibility means that the State could face a scenario in which state policymakers elect to maintain the status quo. A "do nothing" approach would result in the State having to terminate the coverage of any Childless Adults enrolled as of January 1, 2014. AHCCCS projections place that enrollment at over 50,000 individuals. The State is taking this step now to avoid that result.
- (2) **Provide policymakers with the tools they need to consider restoration of Childless Adult coverage.** The State believes that providing policymakers with as many options as possible and greater flexibility allows for enhanced opportunities to maximize coverage to the greatest extent. This is one of the Governor's principles as she reviews the options available to the State. The most critical tool here is allowing the State to apply the enhanced FMAP to cover Childless Adults beginning in 2014. The State's position is that this step (a) is in keeping with Arizona's tradition of success based on flexibility; (b) adheres to the spirit of the Supreme Court's decision that Medicaid is a federal/state partnership; and (c) supports the policy goal of maximizing coverage opportunities. It is the State's hope that CMS shares this view as it looks to achieve the policy goals of the Affordable Care Act. An all or nothing approach to Medicaid coverage is not in keeping with the tradition of the program and places at risk the health and well-being of hundreds of thousands of Arizonans.

We look forward to having this dialogue with you as you look for the right path forward in working with the states. It is our sincerest hope that we continue in the spirit of partnership and flexibility that has made Arizona's Medicaid program a national model and a source of quality, low cost coverage for more than one million Arizonans.

Sincerely,



Thomas J. Betlach

Arizona 1115 Waiver Amendment Request

Continuing Coverage for Childless Adults under the Demonstration

I. Summary

The Arizona Health Care Cost Containment System (AHCCCS) is requesting an amendment to the 1115 Research and Demonstration Waiver (the “Demonstration”) with respect to “Childless Adults.” The purpose of the amendment is twofold: 1) to allow the State to extend its current authority to provide coverage to adults without dependent children with incomes between 0% and 100% of the Federal Poverty Level (“Childless Adults”) for the entire period of its Demonstration and 2) to obtain the enhanced federal medical assistance percentage (FMAP) for Childless Adults beginning January 1, 2014.

Although the State’s authority to provide coverage to Childless Adults under the Demonstration expires December 31, 2013 as stated in the Costs Not Otherwise Matchable (“CNOMs”) section (18 and 19), the Demonstration remains in effect for nearly three more years through September 30, 2016. The 2013 expiration date for “Childless Adults” in the new AHCCCS Demonstration was included because the Medicaid expansion provisions of the Affordable Care Act (the “ACA”) beginning January 1, 2014 were considered to be mandatory elements of each State’s Medicaid Program at the time the Demonstration was approved on October 21, 2011. Subsequent to the approval of the AHCCCS Demonstration, the United States Supreme Court held that states are not required to adopt the Medicaid expansion provisions. Instead, the Supreme Court ruled that the Medicaid expansion provisions are optional, creating new coverage opportunities for states.

This amendment request is intended to allow the State of Arizona to:

- Fulfill the objectives of Proposition 204 and maximize AHCCCS coverage of Childless Adults with incomes up to 100% FPL *within available resources*.
- Continue the State’s authority to offer Medicaid coverage to Childless Adults between 0% and 100% FPL within available resources as a Demonstration population.
- Maintain the State’s flexibility to manage coverage of Childless Adults within available resources.
- Retain personal responsibility components for Childless Adult coverage, such as cost sharing and missed appointment penalties.
- Obtain the enhanced FMAP described in Section 1905(z) of the Social Security Act for the Childless Adult population beginning January 1, 2014.

II. Overview

Background on Coverage of Childless Adults in AHCCCS

Arizona voters enacted Proposition 204 in 2000, which extended AHCCCS coverage to all Arizonans between 0% and 100% of the Federal Poverty Level (FPL). In 2001, Arizona applied for an 1115 Demonstration waiver to enable the State to extend Medicaid coverage to the Childless Adult population not otherwise eligible for

Arizona 1115 Waiver Amendment Request

Continuing Coverage for Childless Adults under the Demonstration

Medicaid. With federal approval, Arizona became one of only six states in the Nation to provide Medicaid coverage for the Childless Adult population. Eligibility for this population was open-ended, and members received the full Medicaid benefit package. State funding was provided through tobacco litigation settlement dollars, tobacco tax dollars, and the State General Fund. No enrollment caps or waiting lists were included.

The prolonged and damaging recession was particularly severe in Arizona, and the fiscal crisis presented the State with unique challenges. Among these challenges was a 30% decrease in State revenues compounded by a 30% increase in AHCCCS enrollment. These events highlighted the near exclusive role assumed by the State General Fund in subsidizing AHCCCS members covered under Prop. 204. The annual cost of coverage for the Prop. 204 population is approximately one billion dollars. Tobacco dollars fund only about \$150 million of this sum, a miniscule contribution to the overall costs for this population. The severity of the budget crisis and the magnitude of reductions implemented by the AHCCCS Program, as well as throughout state government, required a change to the Demonstration in order to provide the State with the flexibility critical to manage these unprecedented challenges. [This change was in keeping with the language of the Prop. 204 initiative, which provided the state legislature the discretion to fund this coverage within available state resources.](#)

As part of the new Demonstration that was approved October 21, 2011, the State phased out the original Childless Adult program. It was restructured from an open-ended program to one that operated under an enrollment freeze with the flexibility to re-open enrollment should funds become available. The new Demonstration also permitted the State to transition certain vulnerable populations (e.g., children aging out of Medicaid) to the Childless Adult population and to maintain coverage for all childless adults who were enrolled in the AHCCCS Demonstration as of July 8, 2011, as long as they continued to meet eligibility criteria and redetermination requirements.

The Path Forward for Arizona

The provisions within the current Demonstration that authorize the State to provide coverage to Childless Adults end on December 31, 2013. This termination date was established at a time when the ACA Medicaid expansion, which would extend coverage to the Prop. 204 population on January 1, 2014, was considered mandatory. Because the United States Supreme Court determined that the Medicaid expansion provisions of the ACA are optional, individuals who currently qualify as Childless Adults will not be mandatorily eligible for Medicaid on January 1, 2014. Without this affirmative act by the State, Childless Adults will no longer have access to coverage in Medicaid. Therefore, it is critical for the State to submit this amendment seeking an extension of its authority to offer coverage to Childless Adults. [Maintaining this coverage within the Demonstration is in keeping with the language of the Prop. 204](#)

Arizona 1115 Waiver Amendment Request Continuing Coverage for Childless Adults under the Demonstration

[initiative that requires coverage to be extended to Childless Adults within available resources.](#)

Under the leadership of Governor Brewer, Arizona has pursued a deliberative approach to examine the options and coverage solutions available to AHCCCS in light of the Supreme Court's decision. As part of this approach, Governor Brewer has initiated an extensive stakeholder engagement process that began July 31, 2012. The State has conferred with representatives of many key communities and organizations, including: hospitals, physicians, behavioral health providers, tribes, health plans, business leaders, community groups, and advocates. The State has also [scheduled held](#) numerous community forums in Phoenix, Tucson, Flagstaff, ~~and~~ Yuma, [Sierra Vista and Sacaton](#), which [were](#) open to the public. ~~Another session is currently being scheduled in Benson.~~ These sessions [were](#) designed to both educate the public about the options available to the State as well as to receive their input regarding the path forward for Arizona.

Amending Arizona's 1115 Waiver to Maintain Coverage for Childless Adults

As Governor Brewer reviews the options for the State, one of her guiding principles is to recognize the will of Arizona voters regarding AHCCCS coverage for Childless Adults as expressed through the passage of Prop. 204. One of the prevalent themes expressed by stakeholders is for the State to continue its authority to provide coverage for Childless Adults *after* December 31, 2013. Accordingly, the State of Arizona seeks to extend the December 31, 2013 termination date specified in the approved Demonstration to authorize the State to continue its ability to cover Childless Adults as currently provided through its 1115 Demonstration Waiver through September 30, 2016.

This request is submitted to the Centers for Medicare and Medicaid Services (CMS) at this time to allow CMS ample opportunity to review the issues raised by this proposal and to answer key questions as the Governor prepares the State's budget proposal and policy directives that will be released in January of 2013. [This waiver proposal is not designed as a policy statement or a change in current policy. Some stakeholders commented on the current language regarding the State's authority and sought a change, particularly with respect to the requirement that coverage be provided within available resources. The waiver language tracks the language within the Prop. 204 initiative. That initiative requires that Childless Adult coverage be extended under AHCCCS within available resources and cannot be changed.](#)

[This proposal also should not be viewed as a request for a partial expansion. Arizona citizens already mandated a Medicaid expansion over ten years ago. The ACA already categorizes Arizona as an early expansion state. Therefore, Arizona is not eligible for 100% FMAP for the coverage of its Childless Adult population under 100% FPL. Rather, this proposal is designed to protect the State's current authority to maintain coverage for the childless adult population into 2014 and to offer enhanced tools to state policymakers tasked with deciding the future of Medicaid in Arizona.](#)

Arizona 1115 Waiver Amendment Request Continuing Coverage for Childless Adults under the Demonstration

Extending the State's authority to cover Childless Adults under the Demonstration preserves needed flexibility for the State and supports the State's thoughtful approach to examining coverage opportunities for its citizens. The most critical component of the State's approach is obtaining the enhanced FMAP for the Childless Adult population.

As the State evaluates coverage options for the future, Governor Brewer has underscored the need to identify enhanced federal match rate opportunities for the restoration of Prop. 204 as a sustainable component of the solution based upon the Demonstration's stated principles of flexibility and state/federal partnership. It is crucial to recognize that more than a decade ago Arizona was at the forefront in providing medical assistance to the hundreds of thousands of members of this vulnerable population. While states that have never covered childless adults can obtain 100% federal funding for this population in 2014, Arizona's citizens are penalized for having elected to provide AHCCCS coverage to all Arizonans under 100% FPL.

The resulting loss in federal funding associated with having provided coverage to Childless Adults since 2001¹ is enormous. However, this inequity is partially mitigated through the ACA's provision authorizing an enhanced FMAP¹ for Childless Adults to the handful of states in Arizona's position (Section 1905(z) of the Social Security Act). Although the ACA does not make Arizona whole, obtaining enhanced FMAP for the State's Childless Adult population is imperative for the State to consider restoration of Prop. 204. Based on the most recent AHCCCS projections, the State match costs for the Childless Adult population from State Fiscal Year ("SFY") 2014 through SFY 2017 at the current FMAP would be \$2.5 billion. With the enhanced FMAP, the State's costs drop to roughly \$928 million. If Arizona had never expanded coverage to Childless Adults like so many other states, the four-year cost for this population would have been \$57 million.

Authorizing Arizona to secure the enhanced FMAP for Childless Adult coverage comports with the spirit of the ACA and builds upon a tradition of partnership between the federal government and Arizona that has allowed the AHCCCS program to flourish as a model of health care delivery for more than 1.2 million members. Accordingly, the State seeks to include in this amendment language that addresses its ability to obtain the enhanced FMAP for coverage of childless adults as outlined in Section 1905(z) of the Social Security Act beginning January 1, 2014.

The State also seeks to continue its ability to apply mandatory cost sharing requirements as stated in the Standard Terms and Conditions ("STC") 17(d) and missed appointment penalties in STC 17(e). The State would also agree to continue its monthly reporting requirements under STC 35.

¹ The enhanced FMAP is: 83% in 2014; 86% in 2015; 89% in 2016; 89% in 2017; 91% in 2018, 93% in 2019; and 90% in 2020.

Arizona 1115 Waiver Amendment Request

Continuing Coverage for Childless Adults under the Demonstration

III. Public Process

The State ~~will~~ posted this proposal to its website on Tuesday, September 18, 2012, ~~and~~ provided a 30-day public comment period regarding the proposal. In addition, the State ~~will also schedule a held three~~ community forums to allow for an in-depth review of the proposal and for public comment and questions. These were held in Phoenix (with call-in availability for Tucson and Flagstaff), Sierra Vista and Sacaton hosted by the Gila River Indian Community. Once the date and time are finalized, the State will post the information to its Dates and times for these forums were posted to the AHCCCS website and circulated ~~it~~ to stakeholders. By The public comment period closed October 19, 2012, ~~after the expiration of the public comment period and the consideration of public input, the State will formally submit the final proposal to CMS.~~ Due to the total number of comments submitted regarding this proposal and the broader dialogue on the future of Medicaid, the State took additional time to review and consider the public feedback. The State amended this proposal to address some of the public comments received and comments were ~~will~~ also summarized ~~and posted~~ comments received ~~to its~~ the website.

IV. Data Analysis- “With Waiver” vs. “Without Waiver”

The State does not anticipate any change to budget neutrality at this time since the same services will be provided and the same populations are being served. However, the State will provide an updated budget neutrality analysis once policy decisions are made regarding the future of the AHCCCS program under the ACA. In addition, the State seeks to continue to receive a “Without Waiver” budget neutrality per member per month cost for this population.

V. Allotment Neutrality

The State does not anticipate any change to allotment neutrality since the same services will be provided and the same populations are being served.

VI. Details

This amendment request seeks to maintain ~~a~~ the current Childless Adult program beyond the stated termination date of December 31, 2013 at the enhanced FMAP for early expansion states. There are no other anticipated changes at this time.

VII. Evaluation Design

Arizona 1115 Waiver Amendment Request
Continuing Coverage for Childless Adults under the Demonstration

The State proposes to apply the same evaluation criteria to this proposal that it currently applies to this Demonstration population.