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Our first care is your health care
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

April 1, 2010

Ms. Gloria Nagle
Associate Regional Administrator
Centers for Medicare and Medicaid Services
Region IX, Division of Medicaid and State Operations
U.S. Department of Health and Human Services
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

Dear Ms. Nagle:

We are writing to seek guidance and clarification regarding Arizona's Children's Health Insurance Program (CHIP), known as KidsCare, and the impact of recently enacted federal health care reform legislation on the enrollment cap.

As you know, Arizona has been struggling with a severe budget deficit. One of the measures that was adopted to address the State's budget crisis was an enrollment cap on the KidsCare program. On December 30, 2009, the Arizona Health Care Cost Containment System (AHCCCS) submitted KidsCare State Plan Amendment (SPA) #09-002, whereby the State sought to update Section 4.3.1 of the KidsCare State Plan to reflect an enrollment cap on Arizona's CHIP program. The effective date of January 1, 2010 was included in the SPA.

As part of the SPA, AHCCCS included information that the program would place individuals on a waiting list and no new applications would be processed until such time that the AHCCCS Administration is able to verify that funding is sufficient to begin processing new applications.

On March 15, 2010, the Centers for Medicare and Medicaid Services (CMS) approved the SPA as submitted. CMS' approval letter acknowledged approval of the enrollment freeze with the effective date of January 1, 2010. Both the SPA and approval letter can be found on our website at: http://www.azahcccs.gov/reporting/legislation/2009fifth.aspx#KidsCare_Enrollment_Cap.

On March 23, 2010, the President signed the Patient Protection and Affordable Care Act (PPACA) into law. Section 2101(b), as amended by Section 10203(c) (in italics), of the PPACA contained a maintenance of effort requirement. That requirement provides:

“During the period that begins on the date of enactment of the [PPACA] and ends on September 30, 2019, *as a condition of receiving payments under section 1903(a)*, a State shall not have in effect eligibility standards, methodologies, or procedures under its State child health plan . . . for children . . . that are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on the date of enactment of that Act.”

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Because Arizona's CHIP State Plan already contained an approved enrollment freeze as of the date of enactment of the PPACA (March 23, 2010), we believe the KidsCare program in its current form – no new enrollment – is not in violation of the maintenance of effort requirements under the PPACA. We respectfully request your confirmation of this interpretation of the PPACA as promptly as possible since the Arizona legislature will need to act quickly to restore the recent repeal of the CHIP authorizing statutes for the State.

Thank you for your assistance with this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Monica Coury", with a stylized flourish at the end.

Monica Coury
Assistant Director
Office of Intergovernmental Relations

cc: Cheryl Young
Steve Rubio
Moe Gagnon