



## Department of Health

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Governor

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Commissioner

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Executive Deputy Commissioner

August 26, 2019

Audrey Cassidy, Project Officer  
Centers for Medicare & Medicaid Services  
Center for Medicaid and CHIP Services  
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Baltimore, Maryland 21244-1850

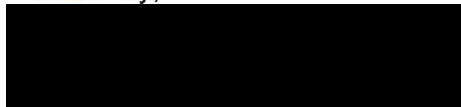
Dear Ms. Cassidy:

This letter serves as the New York State Department of Health's (Department) acknowledgement and acceptance of the Centers for Medicare and Medicaid Services approval of New York's request for an amendment to the MRT Plan (11-W-00114/2) referred to as the "children's amendment".

The Department accepts the August 2, 2019 amended STCs of the demonstration with the technical corrections attached to this letter and in track changes in the STCs.

We look forward to continuing to work with you and your staff. If you have any questions, please contact Gregory Allen of my staff at 518-473-0919.

Sincerely,



Donna Frescatore  
Medicaid Director  
Office of Health Insurance Programs

Attachments: STC Technical Corrections

cc: Judith Cash, CMS  
Nicole McKnight, CMS  
Francis McCullough, CMS  
Adam Goldman, CMS  
Maria Tabakov, CMS  
Gregory Allen, NYS DOH  
Phil Alotta, NYS DOH

**Technical Corrections to August 2<sup>nd</sup> NYS 1115 STCs (corrections highlighted below)**

Waiver Authority

Page 1 Item 2

**2. Comparability**

**Section 1902(a)(10), section 1902(a)(17)**

- a. To enable New York to apply a more liberal income standard for individuals who are deinstitutionalized and receive HCBS through the managed long term care program than for other individuals receiving community-based long term care.
- b. To the extent necessary to permit New York to waive cost sharing for non-drug benefit cost sharing imposed under the Medicaid state plan for beneficiaries enrolled in the Mainstream Medicaid Managed Care Plan (MMMC)—including Health and Recovery Plans (HARP) and HIV SNPs—and who are not otherwise exempt from cost sharing in §447.56(a)(1).
- c. Family of One Non-1915 Children, or “Fo1 Children” – To allow the state to target eligibility to, and impose a participation capacity limit on, medically needy children under age 21 who are otherwise described in 42 CFR §435.308 of the regulations who: 1) receive Health Home Comprehensive Care Management under the state plan in replacement of the case management services such individuals formerly received through participation in New York’s NY #.4125 1915(c) waiver *and* who no longer participate in such waiver due to the elimination of the case management services, but who continue to meet the targeting criteria, risk factors, and clinical eligibility standard for such waiver; and 2) receive HCBS 1915(c) services who meet the risk factors, targeting criteria, and clinical eligibility standard for the above-identified 1915(c) waiver **but are non-SSI medically needy related**. Individuals who meet either targeting classification will have excluded from their financial eligibility determination the income and resources of third parties whose income and resources could otherwise be deemed available under 42 CFR §435.602(a)(2)(i). Such individuals will also have their income and resources compared to the medically needy income level (MNIL) and resource standard for a single individual, as described in New York’s state Medicaid plan.

*The waiver authority should be clarified to point out exactly which authority is necessary (coverage of non-SSI medically needy related individuals).*

5. Reasonable Promptness

Section 1902(a)(8)

To enable the state to limit the number of medically needy Fo1 Children **not otherwise enrolled in the Children's 1915(c) waiver.** **Title XIX Requirements Not Applicable to Self-Direction Pilot Program (Expenditure Authority 8)**

*The waiver authority should be clarified to limit the authority necessary to only children not otherwise enrolled in the Children's 1915(c) waiver.*

**1. Demonstration-Eligible Populations.** Expenditures for healthcare related costs for the following populations that are not otherwise eligible under the Medicaid state plan.

- a. Demonstration Population 2 (TANF Adult). Temporary Assistance for Needy Families (TANF) Recipients. Expenditures for health care related costs for low-income adults enrolled in TANF. These individuals are exempt from receiving a MAGI determination in accordance with §1902(e)(14)(D)(i)(I) of the Act.
- b. Demonstration Population 9 (HCBS Expansion). Individuals who are not otherwise eligible, are receiving HCBS, and who are determined to be medically needy based on New York's medically needy income level, after application of community spouse and spousal impoverishment eligibility and post-eligibility rules consistent with section 1924 of the Act.
- c. Demonstration Population 10 (Institution to Community). Expenditures for health care related costs for individuals moved from institutional nursing facility settings to community settings for long term services and supports who would not otherwise be eligible based on income, but whose income does not exceed the income standard described in STC 4(c) of section IV, and who receive services through the managed long term care program under the demonstration.
- d. Included in Demonstration Population 12 (Fo1 Children)- Medically needy children Fo1 Demonstration children under age 21 with a waiver of 1902(a)(10)(C)(i)(III) who meet the targeting criteria, risk factors, and clinical eligibility standard for #NY.4125 waiver including ICF, NF, or Hospital Level of Care (LOC) **who are not otherwise enrolled in the Children's 1915(c).**

*The waiver authority should be clarified to limit the expenditure authority necessary to only children not otherwise enrolled in the Children's 1915(c) waiver.*

## V. Demonstration Benefits and Enrollment

Page 37

17. The state will submit a report to CMS which includes evidence on the status of the HCBS quality assurances and measures that adheres to the requirements outlined in the March 12, 2014, CMS Informational Bulletin, Modifications to Quality Measures and Reporting in §1915(c) Home and Community-Based Waivers. (1915(c) and 1915(i) HCBS). NOTE: This information could be captured in the 1115 Summary report detailed in **section X**.

18. The state must report annually the deficiencies found during the monitoring and evaluation of the HCBS waiver assurances, an explanation of how these deficiencies have been or are being corrected, as well as the steps that have been taken to ensure that these deficiencies do not reoccur. The state must also report on the number of substantiated instances of abuse, neglect, exploitation and/or death, the actions taken regarding the incidents and how they were resolved. Submission is due no later than 6 months following the end of the demonstration year. NOTE: This information could be included in the annual reports submitted for 1115 waivers detailed in **section X**.

Section X (highlighted) should be **changed to Section VIII**, CMS confirmed this was most likely a typo