DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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State Demonstrations Group

April 19, 2024

Henry Lipman
State Medicaid Director
Office of Medicaid Business and Policy
New Hampshire Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301-6521

Dear Dr. Henry Lipman:

The Centers for Medicare & Medicaid Services (CMS) completed its review of the Final Report for the New Hampshire COVID-19 Public Health Emergency Demonstration (Project No: 11-W-00349/1). This report covers the demonstration period from March 1, 2020 – May 11, 2023. CMS determined that the Final Report, submitted on August 18, 2023 and revised on November 2, 2023 is in alignment with the CMS-approved Evaluation Design, and therefore, approves the state's Final Report. The approved Final Report may now be posted to the state's Medicaid website within 30 days. CMS will also post the Final Report on Medicaid.gov.

We sincerely appreciate the state's commitment to evaluating the New Hampshire COVID-19 Public Health Emergency demonstration under these extraordinary circumstances. We look forward to our continued partnership on New Hampshire's other section 1115 demonstration. If you have any questions, please contact your CMS demonstration team.

Sincerely,

Danielle Daly -S
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Date: 2024.04.19 09:00:32 -04'00'

Danielle Daly
Director
Division of Demonstration Monitoring and Evaluation

cc: Joyce Butterworth, State Monitoring Lead, CMS Medicaid and CHIP Operations Group

New Hampshire COVID-19 Public Health Emergency Demonstration

This program is operated under a Section 1115(a) Medicaid Demonstration initially approved by the Centers for Medicare and Medicaid Services (CMS)

FINAL REPORT
AUGUST 2023

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I. EXECUTIVE SUMMARY

New Hampshire requested and received approval for an 1115(a) Demonstration Waiver, from the Center for Medicare and Medicaid Services (CMS) to make retainer payments to providers of personal care and habilitation care from the period of March 1, 2020 through the date that is sixty (60) days after the Public Health Emergency (PHE) has ended (May 11, 2023). Although the authority was needed to support the New Hampshire provider network to assure adequate access to services during the public health emergency due to an outbreak of Coronavirus Disease (COVID-19), the authority for the waiver was strictly for home services included in the New Hampshire state plan and not for services authorized by 1915(c) Long-Term Care Waivers. New Hampshire currently has authority to make retainer payments for services authorized by 1915(c) Long-Term Care Waivers through Appendix K. To align retainer payments for services authorized by the New Hampshire Medicaid State Plan, New Hampshire applied and received approval for 1115 Demonstration Waiver.

The 1115 Demonstration Waiver authority was requested early during the PHE to be available if New Hampshire determined that a retainer payment policy was necessary to stabilize the provider network to assure member access to services. As New Hampshire responded to the PHE, other interventions were proving effective and a retainer payment policy was not necessary. As a result, New Hampshire never used the 1115 Demonstration Authority provided by CMS.

As New Hampshire did not implement the policy, we conducted interviews of DHHS administrators, the outcome of those interviews explained why NH did not utilize this authority. The overwhelming response was the ability to leverage other Appendix K flexibilities with the goal of continuing service provision without the need for retainer payments. Also, some of the following actions were temporarily implemented: temporary expansion of settings where services can be provided, temporary modifications to staffing ratios, temporary payment to family caregivers, temporary modification to certification and/or licensure requirements, temporary payments for services in acute care hospitals or short term institutional settings. One of the most significant reasons for not utilizing the authority was that New Hampshire was granted the flexibility for utilizing the telehealth option to continue to provide services when in person was not an option.

I. GENERAL BACKGROUND INFORMATION

On January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency due to an outbreak of Coronavirus Disease 2019 (COVID-19). The President of the United States declared a national emergency due to COVID-19 on March 13, 2020.

New Hampshire (NH) has confirmed an increasing number of cases of COVID-19 and as of July 26, 2020 has had 6,436 confirmed cases with 409 deaths attributed to COVID-19.[1].

While the general public in New Hampshire has been impacted by COVID-19, both Medicaid beneficiaries receiving home and community based services and the systems that deliver these services are impacted by the emergency.

As a result, New Hampshire requested and received approval for an 1115(a) Demonstration Waiver, from the Center for Medicare and Medicaid Services (CMS) to make retainer payments to providers of personal care and habilitation care from the period of March 1, 2020 through the date that is sixty (60) days after the Public Health Emergency has ended. The authority is specifically for services authorized through New Hampshire Medicaid State

[1] https://www.nh.gov/covid19/dashboard/summary.html

Plan. While New Hampshire now has the above-mentioned authority under section 1115(a)(2) of the Social Security Act, the policy was not implemented due to appendix K flexibilities, other significant temporary exceptions as well as offering the telehealth option. With the telehealth option, some level of services could continue, making it unnecessary to request retainer payments.

A. RATIONALE FOR DEMONSTRATION

The people served through New Hampshire's Home and Community Based Care providers may be particularly vulnerable to infection and resulting illness due to: (1) underlying health conditions; (2) reliance on support from others for activities of daily living; (3) deficits in adaptive functioning that inhibit ability to follow infection control procedures and readily adapt to extreme changes in daily living. The state has identified potential negative impacts for these populations, but also for the providers delivering the home based services.

An adequate provider network is essential for individuals to have timely access to services. The current Public Health Emergency as well as New Hampshire Stay at Home Emergency Orders have negatively impacted provider business operations. While expansion of Telehealth Services and other emergency orders have mitigated negative financial impact for many, there are unique challenges for HCBC personal care providers who administer services in a patient's home.

The ability to make retainer payments to providers of personal care and habilitation care will support New Hampshire's efforts to maintain access to care for this vulnerable population during the Public Health Emergency.

New Hampshire currently has authority to make retainer payments for services authorized by 1915(c) Long-Term Care Waivers through Appendix K. To align retainer payments for services authorized by the New Hampshire Medicaid State Plan, New Hampshire applied and received approval for 1115 Demonstration Waiver. While New Hampshire has both authorities, neither have been exercised.

B. PURPOSE OF DEMONSTRATION

In the event that New Hampshire implements the policy, the following parameters will be applied:

- The retainer time limit may not exceed the lesser of 30 consecutive days or the number of days for which the state authorizes a payment of "bed hold" in a nursing facility.
- Retainer payments may only be paid to providers with treatment relationships to beneficiaries that existed at the time the emergency was declared and who continue to bill for personal care or habilitation care as though they were still providing these services to those beneficiaries in their absence.
- Retainer payments may not exceed the approved rate(s) or average expenditure amounts paid during the previous quarter for the service(s) that would have been provided.
- Documentation will be maintained indicating the providers receiving retainer payments were eligible to receive such payments and continued to bill for services despite not providing the services billed in order to receive the retainer payments.

NOTE: The demonstration only applies to services authorized by the New Hampshire Medicaid State Plan. New Hampshire has not implemented this policy. As stated above, several factors contributed to NH not deciding to implement the retainer policy, including Appendix K provisions, keeping in contact with providers on assessment of needs, temporary allowances and modifications to policies and service delivery (i.e. telehealth).

C. DEMONSTRATION GOALS

The overall goal of the demonstration is to assure the network capacity of HCBC providers of personal and habilitation care remains consistent with the network capacity prior to the public health emergency.

NOTE: The demonstration only applies to services authorized by the New Hampshire Medicaid State Plan.

D. DEMONSTRATION POPULATION

The demonstration population consisted of providers of personal care and habilitation care who serve individuals receiving HCBC services as authorized by the New Hampshire Medicaid State Plan.

II. EVALUATION HYPOTHESES AND QUESTIONS

The focus of the evaluation will be to elaborate on how flexibilities of the Demonstration assisted in meeting the challenges presented by the Public Health Emergency. Because the Retainer Policy was not implemented, the evaluation will focus on the decision not to implement the policy (RM1).

ROAD MAP 1 (RM1): RETAINER POLICY IS NOT IMPLEMENTED

To evaluate the demonstration why the Retainer Policy was not implemented, it is essential to understand the administrative reasons behind the decision. RM1 includes the following hypothesis and research question:

- Hypothesis 1 (RM1): The implementation of a Retainer Policy is not anticipated to be necessary to maintain the current network of HCBC providers of personal care and habilitation care.
    - Research question 1.2 (RM1): What were the primary drivers for New Hampshire when deciding not to implement the Retainer Policy?

III. METHODOLOGY

The demonstration will employ qualitative design techniques and will rely on themes gathered through semi-structured interviews.

A. EVALUATION DESIGN

Qualitative methods will be employed to evaluate the decision not to implement the retainer policy.

A semi-structured interview was used for qualitative methods. The interview was conducted by video conference and lasted approximately 30 minutes.

The table below provides a crosswalk between evaluation methods and the hypothesis.

Evaluation Methods and Populations				
	Hypothesis	**Research Question**	**Evaluation Method**	**Population**
Road Map 1	Hypothesis 1 (RM1): The implementation of a Retainer Policy is not anticipated to be necessary to maintain the current network of HCBC providers of personal care and habilitation care.	Research question 1.1 (RM1): What factors and data were considered by New Hampshire administrators when deciding not to implement the Retainer Policy?	Semi-Structured Interviews	NH Administrators
		Research question 1.2 (RM1): What were the primary drivers for New Hampshire when	Semi-Structured Interviews	NH Administrators

		deciding not to implement the Retainer Policy?		

EVALUATION MEASURES

Utilization metrics will not be reported due to NH not utilizing this authority. As stated above, several factors contributed to NH not deciding to implement the retainer policy, including Appendix K provisions, keeping in contact with providers on assessment of needs, temporary allowances and modifications to policies and service delivery (i.e. telehealth).

B. DATA SOURCES

The demonstration evaluation will rely on qualitative data captured in the semi-structured interviews.

C. ANALYTIC METHODS

Qualitative Analysis: A Thematic Analysis will be used to assess interview responses. These analyses examine semi-structured interview data for patterns across interviews. Themes will be defined based on their appearance in the data and not on a pre-defined structure. For example, respondents may describe the demonstration as improvements in six unique ways and impeding their operations in four ways.

Thematic analysis will be conducted separately on each semi-structured interview transcript, for each group of interviewees using an inductive approach. Patterns in the transcripts will be identified and grouped into themes. Themes will be checked against the original transcripts for validity. Neither method is intended to support comparison between groups of interviewees or follow principles of statistical significance.

IV. ISOLATION FROM OTHER CHANGES

Lack of true experimental comparison groups: Providers in New Hampshire serve residents from across the state. Thus, regional comparison groups are not feasible.

Alignment with 1915(c) Home and Community Based Waiver Services Retainer Policy: The majority of providers and recipients of personal care and habilitation care receive these services through 1915(c) authority as opposed to the NH Medicaid State Plan. New Hampshire received approval to implement a Retainer Policy for 1915(c) recipients through Appendix K, which is separate from the 1115(a) demonstration for the population receiving services through NH Medicaid State Plan authority. The decision to implement the Retainer Policy will be made for both populations, so it is not necessary to isolate different decision criteria in the evaluation.

IV. FINAL CONSOLIDATED REPORT

Below are the responses from interviews that were conducted with NH DHHS administrators (Wendi Aultman, Jessica Gorton and Sandy Hunt).

Hypothesis 1 (RM1): The implementation of a Retainer Policy is not anticipated to be necessary to maintain the current network of HCBC providers of personal care and habilitation.

Research question 1.1 (RM1): What factors and data were considered by New Hampshire administrators when deciding not to implement the Retainer Policy?

Through utilizing appendix K flexibilities, NH was able to continue service provisions without the need for retainer payments through the following:

- Allowing temporary expansion of settings where services may be provided.
- Allowing temporary modifications of staffing ratios, so long as the health and safety needs of individuals were met.

- Allowing flexibility in types of activities that may be billed under some service categories.
- Allowing temporary allowance of payments to family caregivers or legally responsible individuals when they have been hired by the service provider agency.
- Allowing temporary modification to certification and/or licensure requirements.
- Allowing temporary payment for services in acute care hospitals or short-term institutional settings.

With other COVID PHE funding NH received, we implemented a LTSS stabilization program. This was in collaboration with Employment Security. Providers were issued stipends to allow individuals to continue to work and incentivize agencies to assure continuation of service delivery. We had regular communication with HCBS providers through the pandemic. We heard from our provider networks that this was supporting the stabilizing of their workforce. We saw continuous utilization that remained stable. We did not have any formal assessment of needs from providers (such as a provider retaining policy). It wasn't a data driven policy, but we listened directly to providers. We evaluated service authorization and day to day operations.

Within the Long Term Care eligibility unit we were able to check in on changes in operations from agency to agency. We saw very similar authorizations throughout the pandemic.

With adult day, we looked at other states to review their telehealth model. We put together guidance and a framework for a telehealth model. We worked with the adult day provider network to understand case load and know when they could be open again. This informed rules and policy making.

We gave some flexibility for Personal Care Services on telehealth, but by and large, face to face continued.

There was also a lot of flexibility with meals and how they were delivered. The state created additional service codes that could help with emergency and group meals that would last for longer periods of times. This allowed for less frequent contact.

Research question 1.2 (RM1): What were the primary drivers for New Hampshire when deciding not to implement the Retainer Policy?

MONITORING REPORTING

New Hampshire will comply with the 1115 Demonstration Special Terms and Conditions and 42 CFR 431.428 by producing an annual monitoring report. The annual monitoring report will be consolidated with the final evaluation report and include all applicable reporting elements in the STCs and 42 CFR 431.428.

§ 431.428 REPORTING REQUIREMENTS.

(a) **ANNUAL REPORTS.** The State must submit an annual report to CMS documenting all of the following:

(1) Any policy or administrative difficulties in the operation of the demonstration.

(2) The status of the health care delivery system under the demonstration with respect to issues and/or complaints identified by beneficiaries.

(3) The impact of the demonstration in providing insurance coverage to beneficiaries and uninsured populations.

(4) Outcomes of care, quality of care, cost of care and access to care for demonstration populations.

(5) The results of beneficiary satisfaction surveys, if conducted during the reporting year, grievances and appeals.

(6) The existence or results of any audits, investigations or lawsuits that impact the demonstration.

(7) The financial performance of the demonstration.

(8) The status of the evaluation and information regarding progress in achieving demonstration evaluation criteria.

(9) Any State legislative developments that may impact the demonstration.

(10) The results/impact of any demonstration programmatic area defined by CMS that is unique to the demonstration design or evaluation hypothesis.

(11) A summary of the annual post-award public forum, including all public comments received regarding the progress of the demonstration project.

(b) **SUBMITTING AND PUBLISHING ANNUAL REPORTS.** States must submit a draft annual report to CMS no later than 90 days after the end of each demonstration year, or as specified in the demonstration's STCs. The State must publish its draft annual report on its public Web site within 30 days of submission to CMS.

(1) Within 60 days of receipt of comments from CMS, the State must submit to CMS the final annual report for the demonstration year.

(2) The final annual report is to be published on the State's public Web site within 30 days of approval by CMS