

Public Notice

Maryland Section §1115 Waiver Amendment Application

The Maryland Department of Health (the Department) is providing public notice of its intent to submit to the Centers for Medicare and Medicaid Services (CMS) a written request to amend Maryland's section 1115 HealthChoice Demonstration Waiver (1115 waiver) and to hold public hearings to receive comments on the waiver amendment application.

Amendment Introduction and Objectives

The Maryland Department of Health (MDH) is pleased to submit this 1115 waiver amendment application for the HealthChoice program. HealthChoice, Maryland's statewide mandatory Medicaid managed care program, was implemented in July 1997 under authority of a waiver through §1115 of the Social Security Act. The initial waiver was approved for five years. In January 2002, MDH completed the first comprehensive evaluation of HealthChoice as part of the first 1115 waiver renewal. The 2002 evaluation examined HealthChoice performance by comparing service use during the program's initial years with utilization during State Fiscal Year (SFY) 1997, the final year without managed care. The Centers for Medicare and Medicaid Services (CMS) approved subsequent waiver renewals in 2005, 2007, 2010, 2013, 2016 and 2021.

This amendment would authorize MDH to establish Express Lane Eligibility for certain adults who qualify for Medicaid based on Supplemental Nutrition Assistance Program (SNAP) verified income. Additionally, it would adopt on a permanent basis the temporary 1135 waiver granted during the national public health emergency, regarding the Four Walls Requirement for clinics.

Introduction

Express Lane Eligibility

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) authorized states to establish express lane eligibility (ELE) to efficiently enroll eligible children in Medicaid and the Children's Health Insurance Program (CHIP). ELE permits states to rely on findings, such as income, household size, or other factors of eligibility from another program designated as an express lane agency (ELA) to facilitate enrollment in health coverage. ELAs may include: SNAP, School Lunch, Temporary Assistance for Needy Families (TANF), Head Start, National School Lunch Program (NSLP), and Women, Infants, and Children (WIC), among others. A state may also use information from state income tax data to identify children in families that might qualify, so that families do not have to submit income information.

During unwinding of the continuous eligibility provisions of the Families First Coronavirus Response Act (FFCRA), Maryland received approval under Section 1902(e)(14)(A) of the Social Security Act to temporarily renew Medicaid eligibility for individuals who are also receiving benefits under SNAP, including both children and adults. Under this authority, the State will renew Medicaid eligibility for SNAP participants using gross income as determined by SNAP without conducting a separate income determination. This temporary authority will remain in effect until April 30, 2024.

In 2023, the Maryland General Assembly passed Senate Bill (SB) 26 – *Maryland Medical Assistance Program, Maryland Children's Health Program, and Workgroup on Low-Income Utility Assistance* – (Chapter 282), which required MDH to establish an ELE program for redeterminations of individuals with SNAP benefits in Medicaid and the Maryland Children's Health Program (MCHP), effective January 1, 2025. The legislation requires MDH to designate SNAP as the ELA to support the program and facilitate Medicaid/MCHP eligibility redetermination.

As authorized by CHIPRA, MDH will submit a State Plan Amendment to make ELE for redeterminations of eligible children permanent. This section 1115 Waiver Amendment is being requested to cover eligible adults for redeterminations.

Four Walls Requirement Waiver

Clinics must adhere to federal Medicaid regulations governing clinics (42 C.F.R. § 440.90 - Clinic Services). Absent a waiver, Medicaid may not reimburse clinics if neither the practitioner nor patient is physically located within the clinic. This requirement applies to all freestanding clinics participating in the Maryland Medicaid program, including community-based clinics or School Based Health Clinics (SBHCs).

On August 31, 2020, the CMS approved additional flexibilities to Maryland's waiver under section 1135 of the Social Security Act to address challenges posed by COVID-19. CMS granted Maryland a temporary waiver of the rule requiring that either the practitioner or patient be physically located within the clinic when billing Maryland Medicaid for services. The waiver permits services provided via telehealth from clinic practitioners' homes (or another location) to be considered to be provided at the clinic for purposes of 42 C.F.R. § 440.90(a). Under this authority, all clinics may receive Medicaid reimbursement for services rendered if both the practitioner and the patient are in their homes for the duration of the federal government's declared public health emergency.

This 1115 Waiver amendment is requesting to continue this waiver of the Four Walls Requirement, and allow clinics to bill telehealth services at the standard rates.

Requested Policy Changes, Objectives, and Rationale

Express Lane Eligibility

MDH requests an amendment to the current section 1115 waiver for ELE redeterminations of adults with SNAP benefits. The rationale for the request is to obtain authority for renewal purposes effective May 1, 2024 so that the State has no gap in renewal functionality after the (e)(14) authority expires. In addition, the amendment, in tandem with the State Plan Amendment to authorize ELE redeterminations for children, will bring Maryland Medicaid into compliance with SB 26.

Under the ELE process, eligible adults who are receiving SNAP benefits may be automatically renewed in Medicaid, contingent on meeting other Medicaid eligibility criteria as defined by MDH. The process applies to the following population, which is a continuation of current (e)(14) waiver authority:

- a) Adults aged 19 to 64 whose SNAP verified income is at or below 138% FPL

Four Walls Requirement

MDH requests an amendment to the current section 1115 waiver to continue the expansion for clinics to provide services within the four walls except for homeless populations per 42 C.F.R. §440.90 to allow for delivery of services to participants located in the home or other secure setting by clinicians also located off-site. This would continue allowing clinics to provide telehealth services and be reimbursed at the standard rate. The rationale for this request is to maintain continuity of operations and reimbursement for all clinics.

Anticipated Outcomes

Express Lane Eligibility

This amendment will facilitate streamlined and efficient Medicaid renewals, by allowing qualifying adult participants to more easily maintain Medicaid coverage without disruption, improving their health care access, and ultimately their health.

Four Walls Requirement

This amendment will enable continued operations and reimbursements for clinics, which will allow for continued access to care for participants receiving services.

Budget Neutrality

[To be included upon submission.]

Public Process Requirements

MDH is providing public notice and soliciting stakeholder participation for this §1115 waiver amendment application per the requirements in 42 C.F.R. §431.408. Notice was published in the Maryland Register as well as MDH's website on August 25, 2023.

The State's 30-day public comment period will open on September 1, 2023. Electronic copies of the draft waiver amendment application will be available on that date and may be downloaded from <https://mmcp.health.maryland.gov/Pages/1115-HealthChoice-Waiver-Renewal.aspx>. Hard copies of the application may be obtained by calling (410) 767-5208.

Interested parties may send written comments concerning the waiver amendment to Laura Goodman, Office of Innovation, Research and Development Office of Health Care Financing, Maryland Department of Health, 201 West Preston Street, Room 224, Baltimore, Maryland 21201 or via email to mdh.healthchoicerenewal@maryland.gov. MDH will accept comments from September 1, 2023 until October 2, 2023.

In addition to publishing these notices, MDH will conduct two public hearings on the amendment application. The hearings will be held virtually on September 12, 2023 and September 27, 2023. The second hearing will be held during the Maryland Medicaid Advisory Committee (MMAC) meeting in order to facilitate attendance by MMAC members and stakeholders attending this public forum. Both hearings will be accessible by audio conference and presented as a webinar so that slides would also be visible to participants.

During these hearings, MDH will present a summary of the amendment draft and we accepted verbal and written comments from stakeholders. The public is also able to access information about the waiver amendment and submission of comments on MDH's website via the link:

<https://mmcp.health.maryland.gov/Pages/1115-HealthChoice-Waiver-Renewal.aspx>

The following public hearings will discuss the content of the waiver amendment and solicit feedback and input from public stakeholders.

Tuesday, September 12, 2023; 3:00PM–4:00PM

Maryland Department of Health

GoToWebinar Virtual Platform

To participate in the public hearing remotely, please visit:

<https://attendee.gotowebinar.com/register/9054908596253823071>

Please note that if you desire to make a public comment, you will need to register via the link above. After registering, you will receive a confirmation email containing audio and visual information about joining the webinar.

Thursday, September 28, 2023; 1:00PM–3:00PM

Maryland Department of Health

September MMAC Meeting

GoToWebinar Virtual Platform

To participate in the public hearing remotely, please visit:

<https://attendee.gotowebinar.com/register/4499252585546482444>

Please note that if you desire to make a public comment, you will need to register via the link above. After registering, you will receive a confirmation email containing audio and visual information about joining the webinar.

Beyond these requirements, MDH continually consults with stakeholders on the HealthChoice program through the MMAC. The MMAC meets monthly and receives reports on regulatory and waiver changes, including amendments to the §1115 HealthChoice waiver. Annually, the MMAC provides feedback on the HealthChoice evaluation report. Notice of the waiver amendment, and public hearings, was distributed to the MMAC stakeholder email list, with instruction to submit written comments to MDH's stakeholder email address, MDH.healthchoicerenewal@maryland.gov.