DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

Center for Medicaid, CHIP and Survey & Certification

SMDL# 10-022
ACA # 11

November 9, 2010

Re: 5-Year Approval or Renewal Period for Certain Medicaid Waivers

Dear State Medicaid Director:

This letter is part of a series of guidance to States regarding the implementation of the Affordable Care Act. Section 2601 of the Affordable Care Act, which became effective upon enactment, provides for a 5-year approval or renewal period for certain Medicaid waivers. Specifically, the provision impacts demonstration programs under section 1115 of the Social Security Act (the Act) and waivers under sections 1915(b) and 1915(c) of the Act, through which a State serves individuals who are dually eligible for Medicare and Medicaid.

The Medicaid statute specifies the duration for the various types of Medicaid waiver and demonstration programs. Section 1915(c) waivers are approved initially for a 3-year period and renewed for 5-year periods. Section 1915(b) waivers are approved initially for 2 years and renewed for up to 2-year periods; section 1115 demonstrations are approved initially for a period of 5 years and extended for a period of up to 3 years.

Section 2601 adds a new paragraph (2) to section 1915(h) to permit, at the Secretary's discretion, a waiver that provides medical assistance for dually eligible beneficiaries to be approved for an initial period of up to 5 years and renewed for up to 5 years, at the State's request. This new authority enhances existing tools available to improve care and services for this particularly vulnerable group of beneficiaries. In order for a State to apply for the extended approval periods, the waiver or demonstration must include a focus on the dual-eligible population and provide delivery system options or services that could not typically be provided to dually eligible individuals under the State plan. One such example may be a section 1115 demonstration that provides long-term and acute care services for dually eligible individuals in a managed care delivery system.

The 5-year approval period is subject to Secretarial discretion. As such, the Secretary will make determinations on applications for 5-year demonstrations and renewals in a manner consistent with the interests of beneficiaries and the objectives of the Medicaid program. If a waiver or demonstration excludes dually eligible individuals, the 5-year approval period will not be available, and existing approval period requirements will apply. In addition, coverage-related demonstrations will generally not be approved for five years in cases where the provisions of the demonstration are not consistent with the coverage provisions in the Affordable Care Act.

The extended approval period will also not be granted if the Secretary determines that one or more conditions of the waiver or demonstration have not been met, that the waiver would no longer be cost neutral (for 1915(c) waivers), cost-effective (for 1915(b) waivers) or budget neutral (for 1115 demonstrations), that it would not be efficient to extend the waiver, or that it would no longer be consistent with the purposes of the Medicaid program or the Affordable Care Act. Quality oversight mechanisms must be in place and the State must demonstrate compliance with applicable program requirements, as well as the terms and conditions of the waiver as specified by the Secretary.

For section1915(c) and 1915(b) waivers, the Centers for Medicare & Medicaid Services has modified the Web-based application at www.hcbswaivers.net to permit States to request an approval period of up to 5 years. The Affordable Care Act provides conforming amendments to this part of section 1915, but since section 1915(d) is rarely used, this letter does not address it. Cost neutrality estimates and cost-effectiveness data will be necessary for all years of the approval period. For section 1115 demonstrations, the State's submission should reflect the revised approval periods and include requisite budget neutrality for the entire approval period.

If you have any questions, please contact Barbara Edwards, Director of the Disabled and Elderly Health Programs Group at 410-786-0325.

Sincerely,

/s/

Cindy Mann
Director

cc:
CMS Regional Administrators

CMS Associate Regional Administrators
Division of Medicaid and Children's Health

Rick Fenton
Acting Director
Health Services Division
American Public Human Services Association

Joy Wilson
Director, Health Committee
National Conference of State Legislatures

Matt Salo
Director of Health Legislation
National Governors Association

Debra Miller
Director for Health Policy
Council of State Governments

Carol Steckel
President
National Association of Medicaid Directors

Christine Evans, M.P.H.
Director, Government Relations
Association of State and Territorial Health officials

Alan R. Weil, J.D., M.P.P.
Executive Director
National Academy for State Health Policy