



**American Hospital
Association**

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Submitted Electronically

Donald M. Berwick, M.D.
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: Medicaid Program; Review and Approval Process for Section 1115 Demonstrations; File Code CMS-2325-P (Vol. 75, No. 180)

Dear Dr. Berwick:

On behalf of our more than 5,000 member hospitals, health systems and other health care organizations, and our 40,000 individual members, the American Hospital Association (AHA) appreciates the opportunity to respond to the Center for Medicare & Medicaid Services' (CMS) proposed rule implementing provisions in the *Patient Protection and Affordable Care Act* (ACA) related to the approval process for Medicaid and Children Health Insurance Programs (CHIP) demonstration programs under the 1115 waiver authority.

The Medicaid and CHIP 1115 waiver demonstration programs, over the years, have proven to be an important tool for state and the federal governments to test new delivery systems, insurance models, coverage expansions and payment methods. Too often the public has not had sufficient opportunity to comment on these innovative approaches. In many cases, the review and approval process seems to have been driven more by state and federal budgetary concerns rather than principles for an open and transparent process. The Government Accountability Office in two reports, in 2002 and 2007, cited numerous examples where the state and federal government waiver process was found wanting in terms of public involvement. The ACA addresses these deficiencies by requiring a more transparent waiver approval process.

The AHA is very encouraged by the approach CMS has taken in implementing the ACA requirements as outlined in the proposed rule. The following comments address issues related to the state public notice process, the federal public notice process and the monitoring and compliance requirements.



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Page 2 of 2

STATE PUBLIC NOTICE PROCESS

Requiring states to establish a process for public notice with a comment period for any demonstration program application is critical for ensuring transparency. However, we recommend that the timeframe during which the public can comment on a demonstration program application be extended from 30 days to 45 or even 60 days. Further, we recommend that states be specifically required to furnish information on the types of waivers they request and the various authorities they believe are necessary to authorize the demonstration program. This will help ensure a meaningful opportunity for public review.

APPLICATION PROCEDURES

The AHA strongly supports the requirements that the state include in written form the nature, scope and impact of the demonstration project, including written evidence that the state has met the public notice and comment requirements. And, the AHA supports the recommendation that CMS post on its website the status of each state's waiver request and the information the state has submitted as part of the waiver process.

FEDERAL PUBLIC NOTICE AND APPROVAL PROCESS

Allowing the public an opportunity to raise issues and concerns during the federal review stage of a state's demonstration application is a critical step in ensuring an open and transparent process. The AHA strongly supports the steps outlined by the proposed rule as well as posting on the CMS website a list of issues raised by the public during this stage. CMS could further post a description of how the general categories of issues were addressed in the final decisions on a state's application, similar to how public comments are treated in the formal federal rulemaking process.

MONITORING, COMPLIANCE, EVALUATION AND REPORTING

The AHA strongly supports the approach taken in the proposed rule that establishes a robust and thoughtful process that continues to engage the public after a state demonstration application is approved. Such steps include a post-implementation public forum, rigorous evaluations and state reporting that will be available through CMS' website.

Ensuring an open and transparent waiver demonstration process is important for all stakeholders – government (federal and state), providers, insurers and, most importantly, beneficiaries. The AHA looks forward to working with you and your staff to meet this challenge. We thank you for the opportunity to comment. If you have any questions about our comments, please contact Molly Collins Offner, AHA policy director at mcollins@aha.org or (202) 626-2326.

Sincerely

Rick Pollack
Executive Vice President