

# THE DISABILITY COALITION

*A Coalition of Persons with Disabilities, Family Members, and Advocates*

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November 1, 2018

Brent Earnest, Secretary  
New Mexico Human Services Department  
PO Box 2348  
Santa Fe, NM 87504-2348

Submitted by email to : [madrules@state.nm.us](mailto:madrules@state.nm.us)

Re: HSR vol. 41, #27

Secretary Earnest:

The Disability Coalition appreciates the extension of time to submit comments in this rulemaking, and offers the following comments to supplement those we previously submitted on October 25 concerning the Human Services Department's proposed revisions to Medicaid regulations implementing changes in the Centennial Care waiver renewal ("Centennial Care 2.0").

Premiums and co-pays – HSD's proposed revisions add numerous references to co-pays and premiums in various parts of the regulations, with details to follow in a later rulemaking. Because of this lack of detail, we cannot comment on specifics and will simply reiterate that we oppose premiums and cost-sharing in Medicaid. Extensive research has shown that both premiums and co-pays are barriers to health coverage and access to care.<sup>1</sup>

Because there is such a large body of research on these points, there is no legitimate research or demonstration purpose in the department's proposal, as required for a waiver under §1115 of the Social Security Act.<sup>2</sup> In addition, one of the criteria for a waiver under §1115 is that the proposal "assist in promoting the objectives" of Medicaid. Measures that erect barriers to obtaining coverage and services cannot meet the Medicaid program's statutory purpose of providing medical assistance.<sup>3</sup>

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<sup>1</sup> For a summary of research in this area, see Artiga, et al., "The Effects of Premiums and Cost Sharing on Low-Income Populations: Updated Review of Research Findings", Kaiser Family Foundation, 6/2017.

<sup>2</sup> Social Security Act §1115, 42 USC sec. §1315.

<sup>3</sup> Social Security Act §1901, 42 U.S.C. §1396-1.

That said, and in accordance with our opposition to co-payments, we support the proposed elimination of current co-pays applicable to the Children's Health Insurance Program (CHIP) and the Working Disabled Individuals (WDI) program. 8.295.600.9, 8.243.400.18, 8.243.600.12, 8.302.2 .10G(4) and (5).

8.290.600.11 – Subsection A, covering “Initial Benefits” for home- and community-based waiver services (HCBS), is rewritten in its entirety. Quite frankly, it is not clear to us exactly what HSD intends here.

One thing that is clear is that the department proposes to delete the requirement that services must start within 90 days of an eligibility determination. We oppose this change and urge that a deadline be retained.

Beyond that, we can't tell whether HSD is proposing that general Medicaid health benefits start immediately upon an eligibility determination – that is, upon determination as to financial, non-financial and level of care criteria, while waiting for a service plan for HCBS – or that no Medicaid benefits of any kind would be available until the service plan is in place. We hope that the intention is the former; if it is the latter, we object strongly. Eligibility for general Medicaid benefits should begin immediately once it is determined that the individual meets the eligibility criteria.

In any event, we urge the department to redraft any final provision so readers can tell what it means.

Thank you for your consideration of these comments.

Sincerely,

*Ellen Pinnes*

Ellen Pinnes  
for The Disability Coalition