

June 4, 2018

Seema Verma, Administrator
The Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Opposition to Florida's Medicaid Waiver Amendment to Eliminate Retroactive Coverage

Dear Administrator Verma:

The National Consumer Voice for Quality Long-Term Care writes to oppose the Florida Agency for Health Care Administration's proposal to waive the federal protection that provides up to three months of retroactive Medicaid coverage for Managed Medical Assistance (MMA) program recipients. Under the proposal, the MMA program could provide coverage only as far back as the first day of the month of application.

Retroactive Coverage Is Vital to Vulnerable Long-Term Care Consumers.

Health care needs can be unpredictable. No one can predict the onset of medical conditions, such as a stroke, dementia, or a fall leading to a broken hip, that often require expensive long-term care. Once a person finds herself in a nursing home or another long-term care setting, she may not be healthy enough to file a Medicaid application, or may not understand that a Medicaid application should be filed. Furthermore, the process of preparing a Medicaid application may require many weeks. For example, an application for Medicaid nursing home coverage may require submitting five years of bank statements. Simply assembling these statements could require a great deal of time and possibly assistance.

To protect long-term care consumers, federal Medicaid law requires that Medicaid coverage be retroactive up to three months prior to the application month. This is critically important as evidenced by the case of Rita Morris, a family member whose mother needed nursing home care. Rita's mother was admitted to a nursing home in August 2007, but her Medicaid was not approved until October 2007. Without that three month retroactive coverage, Rita's mother would have owed the nursing home thousands of dollars. Her nursing home care would not have been covered by Medicare, and she would not have been able to pay the nursing home bills.

In addition, for those who are eligible for Medicaid coverage that helps pay for their Medicare premiums, eliminating retroactive coverage cannot meet a purported goal of encouraging individuals to acquire health insurance promptly as these individuals already have Medicare.

The National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a 501(c)(3) nonprofit membership organization founded in 1975 by Elma L. Holder that advocates for quality care and quality of life for consumers in all long-term-care settings.

Instead, this proposal would exacerbate the financial burden of health care costs for long-term care consumers with low incomes.

Florida's waiver amendment request states that in the 2015-2016 fiscal year, less than 1% of all Florida Medicaid recipients were made retroactively eligible. This seems to imply that the impact of eliminating retroactive eligibility would be small. Consumer Voice disagrees. While the majority of Medicaid recipients may not utilize retroactive coverage, the impact would be enormous on each long-term care consumer who needs retroactive eligibility but would not have access to it.

The Proposed Waiver Would Fail to Promote the Medicaid Program's Objectives.

Under federal law, Medicaid demonstration waivers are allowed only if they are "likely to assist in promoting the objectives" of the Medicaid program. This proposal fails to meet this standard. The application does not identify a specific proposition to be tested. Instead, the application states that the objective is to "enhance fiscal predictability," but this is accomplished by denying health care coverage to consumers who desperately need it. Waivers should be used to improve coverage, not to leave Medicaid-eligible consumers without coverage when they have health care needs, especially when those needs are unpredictable.

The application could be read to imply that the state intends to test whether elimination of retroactive coverage would encourage Floridians to maintain coverage and apply for Medicaid as soon as they are eligible, but such a test would be contrary to the Medicaid program's objective to protect low-income long-term care consumers who otherwise cannot afford needed health care. Furthermore, as discussed above, even if a consumer is able to start preparing an application for Medicaid as soon as they are eligible, the process may take weeks or months. Eliminating retroactive coverage would put Medicaid-eligible consumers in grave financial risk and could mean they do not get necessary care because they cannot afford it.

Conclusion.

Thank you for considering these comments. Consumer Voice urges CMS to reject this amendment — it would harm the vulnerable long-term care consumers that the Medicaid program should be protecting.

Sincerely,

A handwritten signature in cursive script that reads "Lori Smetanka".

Lori Smetanka, J.D.
Executive Director