

FULL PUBLIC NOTICE
Department of Health
MRT 1115 Waiver Extension Request

In compliance with 42 CFR 431.408(a)(1) as well as the current MRT Waiver Special Terms and Conditions regarding the annual Public Forum requirement, the New York State Department of Health is pleased to announce that it will conduct two virtual public hearings/public forums, to provide an overview of the State's 1115 waiver extension request and allow members of the public to provide comments. **This notice further serves to open the 30-day public comment period which will close on Friday, January 15, 2021.** In addition to this 30-day comment period where the public will be afforded the opportunity to provide written comments, the Department of Health will be hosting two virtual public hearings during which the public may provide oral comments. Any updates related to the public hearings and forum will be sent via the MRT ListServ.

The two virtual public hearing/public forum meetings will be held as follows:

1. First Public Hearing/Public Forum
 - a. **Thursday, January 21, 2021 from 1-4pm.**
 - b. Pre-registration is required for anyone wishing to provide oral comment using this link.
<https://meetny.webex.com/meetny/onstage/g.php?MTID=eafaac7a7545ec85e7a621bdc99cdb98d>.
 - c. Individuals who wish to provide comment will need to register with an "SP" in front of their name (ex: SP Jane Doe) and must email 1115waivers@health.ny.gov no later than Wednesday, January 20, 2021 at 4pm to confirm registration.
 - d. Individuals will speak in their order of registration. We kindly request that all comments be limited to five minutes per presenter to ensure that all public comments may be heard.

2. Second Public Hearing/Public Forum
 - a. **Wednesday, January 27, 2021 from 1-4pm.**
 - b. Pre-registration is required for anyone wishing to provide oral comment using this link.
<https://meetny.webex.com/meetny/onstage/g.php?MTID=eb77f943a1d8bfd61a0caba29cf338bf>
 - c. Individuals who wish to provide comment will need to register with an "SP" in front of their name (ex: SP Jane Doe) and must email 1115waivers@health.ny.gov no later than Tuesday, January 26, 2021 at 4pm to confirm registration.
 - d. Individuals will speak in their order of registration. We kindly request that all comments be limited to five minutes per presenter to ensure that all public comments may be heard.

Prior to finalizing the proposed MRT Waiver extension application, the Department of Health will consider all written and verbal comments received. These comments will be summarized and addressed in the final version that is submitted to CMS.

Extension Proposal Summary and Objectives

The New York State Department of Health (“NYSDOH”) is requesting a three-year extension of the existing Section 1115 Medicaid Redesign Team (“MRT”) waiver demonstration, which is set to expire on March 31, 2021. ***This extension proposal seeks an extension of all current programs and authorities in the State’s current waiver demonstration, with the following two programmatic amendments:***

- **Carveout of the Non-Emergency Medical Transportation (NEMT) Benefit for Managed Long-Term Care Members to Fee-For-Service:** The goals of this amendment request are as follows:
 - Improve administrative simplification by creating a consistently managed transportation benefit and removing the benefit from the MRT Waiver;
 - Reduce cost-risk by shifting the broker arrangement to a risk-based arrangement; and
 - Create a larger pool of members by combining all members, except PACE for which the transportation benefit must be managed by the PACE Organization under federal rules, for brokers to provide NEMT service to.

- **Carveout of Pharmacy Benefits from Medicaid Managed Care to Fee-For-Service.** The goals of this amendment request are as follows:
 - Provide the State with full visibility into prescription drug costs;
 - Centralize and leverage negotiation power;
 - Provide a single drug formulary with standardized utilization management protocols; and
 - Address the growth of the 340B program and associated reductions in State rebate revenue.

These amendments were developed by the State’s Medicaid Redesign Team II (MRT II), and are part of a larger, more comprehensive set of reforms that the State is planning to innovate and improve the Medicaid program. MRT II brought together a comprehensive set of stakeholders to collectively find solutions that improve the delivery of care and outcomes for Medicaid members and contain spending growth in the Medicaid program.

Eligibility, Benefits, and Cost-Sharing Changes

This extension proposal, inclusive of the two proposed amendments, contains ***no changes to eligibility, scope of benefits, or cost-sharing requirements***. The two proposed amendments simply shift the administration and delivery of the two identified

benefits by carving out these two benefits from the Medicaid Managed Care delivery systems to Fee-For-Service in the State Plan.

Enrollment and Fiscal Projections

This 1115 extension proposal is expected to have no or nominal impact on annual Medicaid enrollment, and is further expected to be budget neutral. The tables below illustrate historical caseloads and costs of the current waiver (Exhibit 1), as well as projected caseloads and costs of the demonstration as proposed (Exhibit 2).

Exhibit 1: Historical Caseloads and Costs (in total computable dollars) *

| Demonstration Year | DY18 | DY19 | DY20 | DY21* | DY22* |
|-----------------------|------------------|------------------|------------------|------------------|------------------|
| Historical Caseload** | 4,903,302 | 4,883,361 | 5,170,656 | 5,472,989 | 5,738,303 |
| Historical Cost | \$47,739,999,038 | \$47,739,999,038 | \$47,739,999,038 | \$47,739,999,038 | \$47,739,999,038 |

*Includes projected data.

**Total historical cost figures as reported in the CY2020 Q3 submission of the Budget Neutrality Reporting Tool, WW Spending Total Tab.

**Caseload is based on total Member Months reported /12 (CY2020 Q3 submission of the Budget Neutrality Reporting Tool, MemMon Total Tab).

Exhibit 2: Projected Caseloads and Costs (in total computable dollars) *

| Demonstration Year | DY23 | DY24 | DY25 |
|--|-----------------------|-----------------------|------------------------|
| Projected Caseload of the Demonstration | 4.9 million | 4.9 million | 4.9 million |
| <i>MLTC Transportation Carveout Only</i> | 0 | n/a | n/a |
| <i>Pharmacy Carveout Only</i> | 0 | n/a | n/a |
| Projected Cost | \$51.2 billion | \$53.5 billion | \$ 56.0 billion |
| <i>MLTC Transportation Carveout Only</i> | \$16.6 million | n/a | n/a |
| <i>Pharmacy Carveout Only**</i> | \$698.1 million | n/a | n/a |

*The numbers above represent projected caseload and costs for the entire waiver proposal, as well as specific details related to the two proposed amendments.

**MLTC Transportation and Pharmacy Carveouts will not impact membership as neither carveout affects member eligibility.

***The costs below do not include a projection for MEG 9 (HCBS Expansion) and MEG 10 (Institute to Community).

Hypotheses and Evaluation

In July 1997, New York State (the “State”) received approval from the Centers for Medicare and Medicaid Services (“CMS”) for its “Partnership Plan” Medicaid Section 1115 Demonstration (the “1115 Demonstration”). In implementing the 1115 Demonstration, the State sought to achieve the following goals:

- Improve access to health care for the Medicaid population;
- Improve the quality of health services delivered;
- Expand access to family planning services; and
- Expand coverage to additional low-income New Yorkers with resources generated through managed care efficiencies.

The primary purpose of the Demonstration was to enroll a majority of the State’s Medicaid population into managed care; to use a managed care delivery system to deliver benefits to Medicaid recipients; to create efficiencies in the Medicaid program, and enable the extension of coverage to certain individuals who would otherwise be without health insurance. The MRT Waiver continues to meet the goals and objectives that were established at the initial approval of the demonstration.

The current hypotheses for the aforementioned goals are:

- The MRT Waiver will improve access to health care for the Medicaid population;
- The MRT Waiver will improve the quality of health services delivered;
- The MRT Waiver will expand access to family planning services; and
- The MRT Waiver will expand coverage to additional low-income New Yorkers with resources generated through managed care efficiencies.

Waiver and Expenditure Authorities

As specified in the MRT Waiver extension application, the State requests a continuation of the following waiver and expenditure authorities to operate the demonstration:

| Waiver Authority | Reason and Use of Waiver Authority |
|--|--|
| 1. Extension of Existing Demonstration Section 1115(a) | a. To the extent necessary to enable the State to extend the existing waiver for an additional three years. |
| 2. Statewideness Section 1902(a)(1) | a. To permit New York to geographically phase in the Managed Long-Term Care (MLTC) program and the Health and Recovery Plans (HARP) and to phase in Behavioral Health (BH) Home and Community Based Services (HCBS) into HIV Special Needs Plans (HIV SNP). |
| 3. Comparability Section 1902(a)(10), section 1902(a)(17) | <p>a. To enable New York to apply a more liberal income standard for individuals who are deinstitutionalized and receive HCBS through the managed long-term care program than for other individuals receiving community-based long-term care.</p> <p>b. To the extent necessary to permit New York to waive cost sharing for non-drug benefit cost sharing imposed under the Medicaid State Plan for members enrolled in the Mainstream Medicaid Managed Care Plan (MMMC) – including Health and Recovery Plans (HARP) and HIV SNPs – and who are not otherwise exempt from cost sharing in §447.56(a)(1).</p> <p>c. Family of One Non-1915 Children, or “Fo1 Children” – To allow the State to target eligibility to, and impose a participation capacity limit on, medically needy children under age 21 who are otherwise described in 42 CFR</p> |

| Waiver Authority | Reason and Use of Waiver Authority |
|--|---|
| | <p>§435.308 of the regulations who: 1) receive Health Home Comprehensive Care Management under the State Plan in replacement of the case management services such individuals formerly received through participation in New York's NY #.4125 1915(c) waiver and who no longer participate in such waiver due to the elimination of the case management services, but who continue to meet the targeting criteria, risk factors, and clinical eligibility standard for such waiver; and 2) receive HCBS 1915(c) services who meet the risk factors, targeting criteria, and clinical eligibility standard for the above-identified 1915(c) waiver. Individuals who meet either targeting classification will have excluded from their financial eligibility determination the income and resources of third parties whose income and resources could otherwise be deemed available under 42 CFR § 435.602(a)(2)(i). Such individuals will also have their income and resources compared to the medically needy income level (MNIL) and resource standard for a single individual, as described in New York's State Medicaid Plan.</p> |
| <p>4. Amount, Duration & Scope Section 1902(a)(10)(B)</p> | <p>a. To enable New York to provide behavioral health (BH) HCBS services, whether furnished as a State Plan benefit or as a demonstration benefit to targeted populations that may not be consistent with the targeting authorized under the approved State Plan, in amount, duration and scope that exceeds those available to eligible individuals not in those targeted populations.</p> |
| <p>5. Freedom of Choice Section 1902(a)(23)(A)</p> | <p>a. To the extent necessary to enable New York to require members to enroll in Managed Care Organizations, including the Mainstream Medicaid Managed Care (MMMC), and MLTC (excluding individuals designated as "Long-Term Nursing Home Stays") and HARP programs in order to obtain benefits offered by those plans. Members shall retain freedom of choice of family planning providers.</p> |
| <p>6. Reasonable Promptness Section 1902(a)(8)</p> | <p>a. To enable the State to limit the number of medically needy Fo1 Children not otherwise enrolled in the Children's 1915(c) waiver.</p> |
| <p><i>Title XIX Requirements Not Applicable to Self-Direction Pilot Program (see Expenditure Authority 6, "Self-Direction Pilot")</i></p> | |
| <p>7. Direct Payment to Providers Section 1902(a)(32)</p> | <p>a. To the extent necessary to permit the State to make payments to members enrolled in the Self Direction Pilot Program to the extent that such funds are used to obtain self-directed HCBS LTC services and supports.</p> |

The State is requesting the use of the same expenditure authorities as approved in the existing 1115 demonstration, except for expenditure authority to provide incentive payments and planning grants for the previously numbered Expenditure Authority 7, Delivery System Incentive Reform Payment (DSRIP) program, which are expiring in March of 2020, or previously numbered Expenditure Authority 6, Designated State

Health Program Funding, which expired in 2020. While the State is not requesting the use of the DSRIP Expenditure Authority, CMS provided additional authority to provide DSRIP administration and a schedule of PPS payments until 2021, this additional authority is not part of this extension request. The State requests the continuation of the remaining expenditure authorities and are as follows:

| Expenditure Authority | Reason and Use of Expenditure Authority |
|--|--|
| <p>1. Demonstration-Eligible Populations.</p> | <p>Expenditures for healthcare related costs for the following populations that are not otherwise eligible under the Medicaid State Plan:</p> <ul style="list-style-type: none"> a. Demonstration Population 2 (TANF Adult). Temporary Assistance for Needy Families (TANF) Recipients. Expenditures for health care related costs for low- income adults enrolled in TANF. These individuals are exempt from receiving a MAGI determination in accordance with §1902(e)(14)(D)(i)(I) of the Act. b. Demonstration Population 9 (HCBS Expansion). Individuals who are not otherwise eligible, are receiving HCBS, and who are determined to be medically needy based on New York’s medically needy income level, after application of community spouse and spousal impoverishment eligibility and post-eligibility rules consistent with section 1924 of the Act. c. Demonstration Population 10 (Institution to Community). Expenditures for health care related costs for individuals moved from institutional nursing facility settings to community settings for long term services and supports who would not otherwise be eligible based on income, but whose income does not exceed the income standard described in STC 4(c) of section IV, and who receive services through the managed long term care program under the demonstration. d. Included in Demonstration Population 12 (Fo1 Children)- Medically needy children Fo1 Demonstration children under age 21 with a waiver of 1902(a)(10)(C)(i)(III) who meet the targeting criteria, risk factors, and clinical eligibility standard for #NY.4125 waiver including ICF, NF, or Hospital Level of Care (LOC) who are not otherwise enrolled in the Children’s 1915(c). |
| <p>2. Twelve-Month Continuous Eligibility Period.</p> | <ul style="list-style-type: none"> a. Expenditures for health care related costs for individuals who have been determined eligible under groups specified in Table 1 of STC 3 in Section IV for continued benefits during any periods within a twelve-month eligibility period when these individuals would be found ineligible if subject to redetermination. This authority includes providing continuous coverage for the Adult Group determined financially eligible using Modified Adjusted Gross Income (MAGI) based eligibility methods. For expenditures related to the Adult Group, specifically, the State shall make a downward adjustment of 2.6 percent in claimed expenditures for federal matching at the enhanced federal matching rate and will instead claim those expenditures at the regular matching rate. |
| <p>3. Facilitated Enrollment Services.</p> | <ul style="list-style-type: none"> a. Expenditures for enrollment assistance services provided by managed care organizations (MCO), the costs for which are included in the claimed MCO capitation rates. |

| Expenditure Authority | Reason and Use of Expenditure Authority |
|--|---|
| 4. Demonstration Services for Behavioral Health Provided under Mainstream Medicaid Managed Care (MMMC). | a. Expenditures for provision of residential addiction services, crisis intervention and licensed behavioral health practitioner services to MMMC members only and are not provided under the State Plan [Demonstration Services 9]. |
| 5. Targeted Behavioral Health (BH) HCBS Services. | a. Expenditures for the provision of BH HCBS services under Health and Recovery Plans (HARP) and HIV Special Needs Plans (SNP) that are not otherwise available under the approved State Plan [Demonstration Services 8]. |
| 6. Self-Direction Pilot. | a. Expenditures to allow the State to make self-direction services available to HARP and HIV/SNP members receiving BH HCBS or children meeting targeting criteria for the Children’s 1915(c) Waiver and in MMMC receiving HCBS under the Children’s Waiver. The program will be in effect from January 1, 2017 through March 31, 2021 [Demonstration Services 8]. |

Submission and Review of Public Comments

A draft of the proposed MRT Waiver extension request available for review at: https://www.health.ny.gov/health_care/medicaid/redesign/mrt2/ext_request/index.htm

Due to COVID-19 pandemic, the Department of Health offices are operating at a reduced in-person capacity. For individuals with limited online access and require special accommodation to access paper copies, please call (518) 473-0919. While the State will be accepting physical written comments due to COVID-19, comments submitted electronically by email is preferred.

Prior to finalizing the proposed MRT Waiver extension application, the Department of Health will consider all written and verbal comments received. These comments will be summarized in the final submitted version. The Department will post a transcript of the public hearings, as well as any submitted written public comments, on the following website:

https://www.health.ny.gov/health_care/medicaid/redesign/mrt2/ext_request/index.htm.

Please direct all questions to 1115waivers@health.ny.gov.

Written comments will be accepted by email at 1115waivers@health.ny.gov or by mail at:

Department of Health
Office of Health Insurance Programs
Waiver Management Unit
99 Washington Ave.
7th fl. (Suite 720)
Albany, NY 12210

All comments must be postmarked or emailed by 30 days of the date of this notice.