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July 10, 2015

**VIA ELECTRONIC SUBMISSION**

The Honorable Sylvia Mathews Burwell, Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

**RE: Comments on Iowa's Proposal to Extend Waiver of Non-Emergency Medical Transportation (NEMT) in its Marketplace Choice and Wellness Plan Demonstration Projects**

Dear Secretary Burwell:

We appreciate the opportunity to comment on Iowa's proposal to amend its Medicaid expansion demonstrations to extend its waiver of NEMT. The National Health Law Program (NHeLP) protects and advances the health rights of low income and underserved individuals. One of the oldest non-profits of its kind, NHeLP advocates, educates and litigates at the federal and state level.

While we support Iowa's decision to provide coverage to low-income adults, we ask CMS to deny Iowa's proposal to extend this waiver of NEMT for its demonstrations. The evidence Iowa provides in support of the extension fails to justify waiving this key service, and instead reinforces earlier concerns that denying NEMT to enrollees has negatively impacted beneficiary access to care, especially for individuals living below the poverty line.

**NEMT is a crucial benefit for a relatively small subset of Medicaid beneficiaries**

Iowa bases its claim to continue waiving NEMT on two surveys conducted by the Public Policy Center at the University of Iowa. The most recent survey demonstrates that transportation remains a significant access barrier to needed care for enrollees of the Iowa Health and Wellness Program (IHAWP), with 22% of respondents reporting they primarily rely on family or friends to get to their medical appointments (versus only 17% in regular

Medicaid) and 13% reporting an unmet need for transportation in the last 6 months.<sup>1</sup> For both these questions, IHAWP enrollees below the poverty line (in the Wellness Plan) reported even higher need (25% reported relying on other sources for transportation, and 15% with an unmet transportation need.)<sup>2</sup>

That NEMT is not a widely used benefit in Medicaid is no valid justification for waiving it. A very small portion of the Medicaid population requires kidney dialysis or open heart surgery, but no one is arguing that these benefits are not crucial or beneficial. NEMT is most commonly used by individuals who may not be able to drive themselves, may not have access to or be able to afford public transportation, or may have other challenges that make it difficult to get around, such as a disability. Depending on social networks to satisfy medical transportation needs can be unreliable and presents a real barrier to accessing needed care. Again, this affects 13% of the IHAWP respondents every 6 months (15% of lower income beneficiaries). That is a substantial need. Iowa's waiver request focuses on the majority of users while not acknowledging or addressing the expressed needs of a sizeable minority.

### **Statistical comparisons between IHAWP and Medicaid state plan respondents are highly problematic**

Iowa's waiver extension proposal maintains that the reported transportation needs between the IHAWP respondents and regular Medicaid respondents were largely similar. However, the extension proposal fails to mention that the populations being compared are starkly different. According to an earlier version of this survey published as part of the demonstration evaluation, the Medicaid group represents much younger demographic (64% aged 18-34, versus only 24% 18-34 in the IHAWP pool), is overwhelmingly female (83% versus only 60% for IHAWP), and also more Hispanic (8% versus only 4% for IHAWP).<sup>3</sup> Income levels for the Medicaid group are not discussed, though it appears that this group includes (and is perhaps dominated by) pregnant women, whose eligibility in Iowa extends up to 375% FPL.<sup>4</sup> In short, these surveys are comparing apples to oranges in terms of health risk and likely need for transportation. Add to that other methodological limitations, such as potential response bias, and any statistical comparison between these groups becomes relatively meaningless.<sup>5</sup>

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<sup>1</sup> Suzanne Bentler et al., University of Iowa Public Policy Center, *Evaluation of the Iowa Health and Wellness Plan: Member Experiences in the First Year*, 26-7 (April 2015), <http://ppc.uiowa.edu/publications/evaluation-iowa-health-and-wellness-plan-member-experiences-first-year>.

<sup>2</sup> *Id.* at 27.

<sup>3</sup> *Id.* at 15.

<sup>4</sup> Iowa, Medicaid.gov, <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-State/iowa.html> (last visited July 10, 2015.)

<sup>5</sup> Bentler et al., *supra* note 1, at 14.

One can also look at the similar survey outcomes from a different perspective. It is not surprising that the survey finds a sizeable percentage of IHAWP beneficiaries with unmet travel needs, because they have no access to NEMT. The question is rather why the survey finds a persistent unmet need in the general Medicaid population who *can* access NEMT. One possible explanation is that these Medicaid respondents remain largely unaware that this benefit exists. A 2008 study, also conducted by the Iowa Public Policy Center, found that over 55% of the non-elderly, non-disabled Medicaid population in the state reported very low or low understanding of the NEMT benefit.<sup>6</sup> Fully 43% of the whole Medicaid population reported not knowing they could be reimbursed for travel to providers at all.<sup>7</sup> While these numbers may have shifted in the last few years, the data from the Policy Center's more recent 2014 survey can justifiably be interpreted as showing that Iowa needs to improve its outreach and education about this benefit to the state plan population, rather than a justification for why NEMT is not necessary in the Medicaid expansion.

**Iowa's proposal has still not made a clear case for what a waiver of NEMT is actually testing, and in any case, this experiment should now be over.**

In its extension proposal, Iowa describes the exclusion of NEMT as part of a “compromise” to make Medicaid expansion coverage look more like a commercial benefit.<sup>8</sup> Section 1115 authority is intended for experiments that promote the objectives of Medicaid, not for “compromises” that actually undermine Medicaid coverage. The state has failed to justify why this demonstration waiver should continue. The data presented shows that across Medicaid and IHAWP populations, a sizeable number of beneficiaries continue to experience problems accessing care due to lack of transportation. These barriers are even more widespread among enrollees with incomes below the poverty line.<sup>9</sup> Such findings show that waiving NEMT is not consistent with the goals of the Medicaid program. Moreover, the state has not made a clear case for what it would test going forward to justify an extension. Because the state has not met the requirements that § 1115 demonstrations test novel experiments likely to promote the objectives of Medicaid, CMS should reject Iowa's NEMT waiver extension for the whole IHAWP population.

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<sup>6</sup> Paul F. Hanley et al., University of Iowa Public Policy Center, Iowa Medicaid Non-Emergency Medical Transportation System Review and Options for Improvements, 41 (Sept. 2008), [http://ir.uiowa.edu/cgi/viewcontent.cgi?article=1004&context=ppc\\_transportation](http://ir.uiowa.edu/cgi/viewcontent.cgi?article=1004&context=ppc_transportation).

<sup>7</sup> *Id.* at 41.

<sup>8</sup> Iowa Dep't of Human Services, *Iowa Health and Wellness Plan: NEMT Waiver Amendment*, 1 (May 29, 2015), <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ia/ia-marketplace-choice-plan-pa.pdf>.

<sup>9</sup> Bentler et al., *supra* note 1, at 27.

Thank you for considering our comments. If you have any questions or need any further information, please contact David Machledt ([machledt@healthlaw.org](mailto:machledt@healthlaw.org); 202-384-1271), Policy Analyst, at the National Health Law Program.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth G. Taylor". The signature is written in a cursive style with a large initial "E" and a stylized "G".

Elizabeth G. Taylor,  
Executive Director