

October 3, 2015

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

RE: State of Michigan's second waiver amendment proposal to enable continuation of the Healthy Michigan Plan (Medicaid Expansion)

Dear Secretary Burwell:

Michigan Consumers for Healthcare (MCH) thanks you for the opportunity to comment on the Michigan Department of Health and Human Services' (MDHHS) second waiver amendment proposal for our state's Medicaid Expansion, the Healthy Michigan Plan.

MCH is a statewide coalition that works with a diverse alliance of consumers, partners, and policymakers to attain affordable, accessible, quality healthcare for all Michigan residents. Our membership has consistently supported the Healthy Michigan Plan as the only viable means to connect hundreds of thousands of low-income, childless adults to comprehensive healthcare coverage in our state. In support of the Healthy Michigan Plan, the coalition has convened on numerous occasions during this year to study and exchange ideas about the second waiver amendment. These direct stakeholders engagement opportunities were open to consumer advocates from throughout Michigan. They have furthered the understanding of all involved, and provided an open forum in preparation for state and federal comment periods.

Under Governor Snyder's leadership, Michigan finally embraced the unprecedented opportunity to expand coverage to this population through our well-established state Medicaid program. Without this bold decision, most of these adults would otherwise remain uninsured, and likely to forego care or seek it in some of the most costly and least efficient settings available, such as hospital emergency departments. This phenomenon is linked to higher healthcare costs for virtually all consumers in this country, as well as poor health outcomes.

A vast, collaborative effort in our state has led to a program that works for lower income consumers, covering not only their healthcare needs as they arise, but reorienting our system of healthcare delivery toward prevention, healthy behaviors, and care coordination via strong connections to the state's primary care resources. State agencies have worked carefully with consumer advocates to craft a consumer-friendly program. The need for the Healthy Michigan Plan has been amply demonstrated by swift growth in enrollment to cover more than 600,000 Michigan residents—roughly half of the state's former total of uninsured adults. While this solution has been tailored for Michigan's unique needs, the plan and its implementation offer many worthwhile features that other states can look to when considering their own coverage gap solutions. Your department's

significant work to reach creative agreements with the state has been essential throughout the life of the Healthy Michigan Plan.

As Governor Snyder's office has reported, the plan is having a profound impact on enrollees. Since its launch, the Healthy Michigan Plan has already resulted in more than 344,000 primary care visits, 116,000 preventive care visits, 35,000 mammograms, and 17,000 colonoscopies. This is evidence of preventative healthcare utilization that allows consumers to stay healthier for longer periods of time, as well as to detect and treat many conditions earlier and more inexpensively. Additionally, hospitals and health systems rendering services to Healthy Michigan Plan beneficiaries encounter a significantly less problematic process to receive payment, allowing them to reduce reliance on cost-shifting mechanisms that negatively impact all consumers.

Nick Lyon, MDHHS director, stated, "A year into the Healthy Michigan Plan program, the numbers show that Michigan residents are serious about taking the preventative measures necessary to improve health outcomes and reduce the risks of more serious, costly health complications."

Needless to say, major policy changes like the Healthy Michigan Plan require fine tuning over time. When the Michigan legislature voted to create the Healthy Michigan Plan, it did so on the condition that the waiver amendment would be approved by the U.S. Department of Health Human Services by December 31, 2015. Failure to obtain such approval would result in the shutdown of this vital program by April of 2016. The statute's current language leaves no options apart from securing this approval. However, we believe that the development of the actual waiver amendment proposal submitted by MDHHS makes it possible to negotiate a solution that can satisfy the legal requirements of both the state and federal governments. Therefore, we urge you continue negotiations with MDHHS to reach an agreement to amend the waiver by the statutory deadline to ensure continuation of the Healthy Michigan Plan.

When considered as a whole, the legislation that created the Healthy Michigan Plan was clearly intended to create comprehensive healthcare coverage options for lower income adults through the state's Medicaid program. The request for this waiver amendment must be considered through that lens. Both state and federal authorities must also remain true to a vast body of policy and regulation that already exists to protect consumers enrolled in Medicaid programs, while recognizing the opportunities to implement policies with few precedents. We recognize that waiver negotiations are complex and require an evolution of consensus that leads to a solution. **As a general principle, however, we believe that all questions posed by any discretionary aspects of the state statute should be answered with deference to maximum beneficiary protections.** We provide some examples of those possibilities below.

We are also note that, without thoughtful tailoring of a waiver amendment to continue the Healthy Michigan Plan under the current state law, the state's statutory language could inadvertently spawn more cost and administrative burdens for MDHHS and the state

itself, while potentially harming eligible populations. Such a result would be an unreasonable understanding of the statute's underlying intent.

We are happy to report that long-held assumptions about low-income consumers' willingness and ability to engage with a comprehensive, prevention-oriented healthcare coverage system are being overturned. Evidence is mounting that enrolled Michigan residents value and are learning to appropriately utilize coverage. Of course, that process takes a good deal of time, especially considering many challenges lower income populations can face, including language barriers and literacy and numeracy challenges. We strongly urge that all provisions requiring new or altered consumer behaviors and cost-sharing responsibilities are negotiated with an eye to providing the most generous time allowable to mitigate any factor that could lead to lower participation in the Healthy Michigan Plan or higher or more complex costs/burdens for consumers. As you are aware, resources to assist consumers with these types of challenges are limited, and many consumers entering the program have little or no experience with formal coverage and care options. Recognizing the unique needs of the Expansion population is critical if we are to create a program that requires significant consumer behavior requirements. Such requirements must occur over a reasonable arc of time.

As your department and MDHHS work together to find a viable approach that allows the Healthy Michigan Plan to continue, MCH would like to point out key suggestions and concerns regarding the known or potential negative impacts consumers could face without careful work to mitigate them. While this list is not exhaustive, it highlights issues identified as areas of extreme concern by our coalition during the past year.

- **Computing the 48 month “trigger”:** The second waiver requires consumers who are earning between 100-133 percent of the Federal Poverty Level (FPL) and who have been enrolled in the plan for a cumulative period of 48 months to either seek private coverage through the Marketplace, or remain in the plan with substantially increased cost-sharing requirements that exceed the highest current Medicaid limits.
 - We are unsure how the 48-month cumulative limit will be computed and tracked. We call on you to agree upon a mechanism that provides the most generous mechanism in service of this requirement for a population that still remains very low in income, despite what we view as the arbitrary targeting of that income range for higher cost-sharing by state statute. We also ask that you recognize that incomes frequently fluctuate significantly over time in this population. Calculating and tracking the combination of program enrollment and income over time must be done in a way that does not effectively penalize beneficiaries for this phenomenon. Any process designed to tabulate the cumulative 48 months of enrollment within the target income range must be suited to the particular nature of variable incomes in this population by weighing all factors in favor of the most generous computation for beneficiaries.
 - Comprehensive notice requirements suited to the unique needs of the enrolled populations are necessary in order to ensure that they are given

ample notice before they reach the 48-month trigger. Challenges in devising this essential consumer protection component include frequently changing physical addresses, restricted access to telephone and internet, language challenges, etc.

- **Affirming the Medicaid beneficiary status of consumers in the Marketplace.** Regardless of how a beneficiary in the Healthy Michigan Plan chooses to handle coverage after the 48-month trigger is reached under Option 1 in MDHHS' proposal, it is essential that the ongoing status of these individuals as Medicaid beneficiaries is recognized. In the case that a consumer chooses to pursue Marketplace coverage, this status seems consistent with existing Centers for Medicare and Medicaid Services requirements for the similar use of Marketplaces in other states where Medicaid Expansion-eligible populations are involved. This arrangement allows the state to fashion a Michigan-specific program with unique features, as required by state statute, while ensuring that consumers remain protected in accordance with relevant federal law.
- **Clarification of healthy behaviors:** MDHHS' proposal suggests that cost-sharing requirements could be reduced for beneficiaries after reaching the 48-month trigger, but the proposal provides insufficient detail. We request that minimal deviation from established healthy behaviors in the current Healthy Michigan Plan be allowed, in order to provide uniformity that limits confusion and minimizes compliance barriers.
- **Providing a simple, hardship exemption for the target population:** Despite being in the target income range, the beneficiaries in question remain subject to extreme financial risk in most areas of their lives. A simple automotive breakdown, for example, can create a financial disaster for individuals in this income range, and trigger a hardship that should qualify beneficiaries for exemption from the cost-sharing requirements of the second waiver. Such a hardship exemption should require a simple procedure that reduces the burden on the consumer, such as a self-attestation without documentation. This approach also eases the administrative burden for the department, while ensuring that eligible beneficiaries have as few barriers between them and reduced cost-sharing as possible. At least one other state has used a similar consumer protection mechanism, and we believe that it is critical in our state's situation, too.
- **Providing wrap-around services and supports in private policies:** The Healthy Michigan Plan benefits package is robust and provides a level of coverage that will be difficult for consumers to match in private policies offered through the Marketplace. It is essential that the benefits structure of the Healthy Michigan Plan remains the measuring stick for any Marketplace coverage offered in lieu of it. To accomplish this goal, MDHHS has indicated that it intends to develop wrap-around services to make private coverage consistent in quality and benefits with the Healthy Michigan Plan. We strongly support this element of the proposal and believe it is an essential protection for the target population.
- **Creating simple and regular opportunities to re-enter the Healthy Michigan Plan:** Beneficiaries who elect private coverage obtained through the Marketplace may find that it does not meet their needs. It is critical that any who find Marketplace coverage unsuitable are able to return to Healthy Michigan Plan

coverage on an ongoing basis with minimal wait times. This is especially true in the case of the medically frail beneficiaries, who are eligible for an exemption from the time limits imposed by state law. We suggest that the state regularly screen Marketplace enrollees to ensure that any who have subsequently become medically frail be advised of their opportunity to re-enter because of the exemption available to them. Prominent notification of this exemption must be provided through the process leading up to the 48-month trigger and after. In any case, the procedures for notice and re-entry must place minimal burdens on the consumer in terms of procedures and documentation, for example.

- **Collecting information:** It is vital that the department collect data on the experiences of consumers in the target population to inform future policy decisions on this aspect of Michigan's Medicaid Expansion. The cost-sharing requirements in the second waiver are significant for lower income individuals. The effects of these consumers' potential interactions with the private insurance markets and its products are largely unknown. If the amendment is approved, these data will help understand the impact on individual consumers, overall enrollment patterns, Marketplace responses, and the policy as a whole. We believe that MDHHS must also be required to track the costs to the state to administer the provisions of this waiver amendment, if approved. The submitted proposal does not currently offer evaluation components. If such components are included as this process moves forward, we hope that they are developed in conjunction with an opportunity for public stakeholder input.

We summarize our comments by saying that the proposal for the second waiver amendment must be designed to further and maintain the phenomenal success of Healthy Michigan Plan as it stands today. For all the reasons stated above, the plan is essential to creating a more affordable, higher-quality, and more accessible healthcare system that is particularly suited to the needs of low-income, childless adults. With such incredible results to date, it is critical that the negotiated waiver amendment minimizes any harmful impact on beneficiaries.

We thank you again for the opportunity to comment on this critical step in securing the future of the Healthy Michigan Plan and wish you success as your work continues.

Sincerely,

Alan Essig
Executive Director