



COMMONWEALTH OF KENTUCKY

DEPARTMENT OF PUBLIC ADVOCACY

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October 7, 2016

Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Submitted via Medicaid.gov

RE: Comments on Kentucky HEALTH

The Kentucky Department of Public Advocacy (DPA) is the statewide public defender program providing indigent defense representation in Kentucky's 120 counties as well as Kentucky's appellate courts. Kentucky recently made the important decision to join the 30 other states that suspend, rather than terminate, a person's Medicaid coverage during incarceration. Kentucky's Department for Medicaid Services denotes this as a member who is in "(I) incarcerated" status.

Those in (I) incarcerated status do not receive Medicaid coverage for healthcare while in prison or jail. Medicaid, however, does cover inmate inpatient stays that last at least 24 hours in a medical institution. It is estimated that Kentucky has saved about \$16 million in general funds over the last two years from using Medicaid coverage for inpatient inmate care.¹

Suspending rather terminating Medicaid allows many of DPA's clients to have immediate access to physical and mental health treatment including community based substance abuse treatment as a condition of probation at sentencing as well as medicine when they leave jail or prison. Kentucky's Martin School of Public Policy & Administration examined the benefits of suspending Medicaid for individuals entering the criminal justice system and said "[u]pon release, their Medicaid is still in place and they have access to health care, which should improve employment and reduce recidivism." The Martin School Report is enclosed.

Kentucky's 1115 Waiver request called Kentucky HEALTH is open for public comment. Kentucky HEALTH requires Medicaid recipients that are able-bodied, working age adults and their families to pay premiums and participate in community engagement and employment initiatives. We ask that individuals on (I) status and those incarcerated be exempt from paying premiums and the community engagement and employment initiatives if their incarceration makes compliance impossible.

Adding a line 7 to Table 2.1(B) on page 16 of the Waiver that reads—7. Individuals whose Medicaid status is (I) incarcerated or individuals currently incarcerated—would clarify that incarcerated individuals are

¹ State Health Reform Assistance Network, Issue Brief 2016, page 9.
http://www.rwjf.org/content/dam/farm/reports/issue_briefs/2016/rwjf419097

exempt from paying premiums and the community engagement and employment initiatives. Without this clarification those on (I) status could potentially lose their Medicaid eligibility while incarcerated due to non-compliance with the provisions of the 1115 and face penalties including up to a six month waiting period prior to re-enrollment. Again, those in (I) incarcerated status do not receive Medicaid coverage for healthcare while in prison or jail.

For those inmates that receive or are eligible or deemed eligible to receive Medicaid coverage during an admission at a medical institution, premiums with a sliding scale fee can be explored.

Table 2.1(B): Medicaid Populations Not Included In Kentucky HEALTH

1.	Individuals qualifying for Medicaid on the basis of blindness.
2.	Individuals qualifying for Medicaid on the basis of disability, including, but not limited to: a. 1915 (c) waiver recipients; b. Individuals determined eligible for Supplemental Security Income (SSI) on the basis of a disability; c. Medicaid buy-in program for working disabled adults.
3.	Individuals qualifying for Medicaid on the basis of age.
4.	Institutionalized individuals assessed a patient contribution towards the cost of care.
5.	Individuals receiving Medicare.
6.	Former foster care children up to age 26.
7.	Individuals whose Medicaid status is (I) incarcerated or individuals currently incarcerated.

Thank you for the opportunity to comment on Kentucky HEALTH.

Sincerely,



Edward C. Monahan
Public Advocate

Enclosure: Martin School of Public Policy & Administration report

CC: Steven Miller, DMS Commissioner
Amanda Schipp, JD, SVC Inc.