
February 12, 2021

T. Clark Phillip
Interim Director
State of South Carolina, Department of Health & Human Services
1801 Main Street PO Box 8206
Columbia, SC 29201-8206

Dear Mr. Phillip:

On December 12, 2019, the Centers for Medicare & Medicaid Services (CMS) approved South Carolina's request for a new section 1115 demonstration project, entitled "Palmetto Pathways to Independence" (Project Number 11-W-00335/4) in accordance with section 1115(a) of the Social Security Act (the Act). Among other things, the demonstration authorizes the state to require individuals who would become Medicaid eligible under this demonstration, ages 19 through 64, with certain exceptions, to participate in and timely report 80 hours per month of community engagement activities, such as employment, education, job skills training, or community service, as a condition of initial and continued Medicaid eligibility. By its terms, the approval of the demonstration will expire on November 30, 2024.

Under section 1115 and implementing regulations, CMS has the authority and responsibility to maintain continued oversight of demonstration projects in order to ensure that they are currently likely to assist in promoting the objectives of Medicaid, and CMS may withdraw waivers or expenditure authorities if it "find[s] that [a] demonstration project is not likely to achieve the statutory purposes." 42 C.F.R. 431.420(d); see 42 U.S.C. 1315(d)(2)(D).

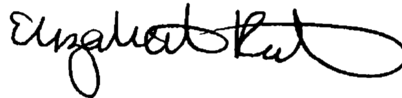
The Palmetto Pathways to Independence community engagement requirement is not in effect. Although the demonstration was approved in December 2019, the state has not implemented the demonstration to date. Since that time, the COVID-19 pandemic has made community engagement infeasible. CMS has serious concerns about testing policies that condition health care coverage on meeting work or other community engagement requirements. The COVID-19 pandemic has had a significant impact on the health of Medicaid beneficiaries. Uncertainty regarding the current crisis and the pandemic's aftermath, and the potential impact on economic opportunities (including job skills training and other activities used to satisfy community engagement requirements, i.e., work and other similar activities), access to transportation and to affordable child care have greatly increased the risk that it would be unreasonably difficult or impossible for many individuals to meet the community engagement requirement approved in this demonstration, which would significantly compromise the demonstration's effectiveness in promoting coverage for its intended beneficiaries. In addition, the uncertainty regarding the lingering health consequences of COVID-19 infections further exacerbates the harm of lack of access to benefits for individuals who would be unable to access coverage under the demonstration because of their inability to meet the community engagement requirement.

Taking into account the totality of circumstances, CMS has preliminarily determined that allowing work and other community engagement requirements to take effect in South Carolina would not promote the objectives of the Medicaid program. Therefore, CMS is providing the state notice that CMS is commencing a process of determining whether to withdraw the authorities approved in the Palmetto Pathways to Independence demonstration that permit the state to require work and other community engagement activities as a condition of Medicaid eligibility, while leaving in place the demonstration's other provisions, including the extension of Medicaid eligibility to certain otherwise-ineligible individuals. See Special Terms & Conditions ¶ 10. If the state wishes to submit to CMS any additional information that in the state's view may warrant not withdrawing those authorities, such information should be submitted to CMS within 30 days. If CMS ultimately determines to withdraw those authorities, it "will promptly notify the State in writing of the determination and the reasons for the amendment and withdrawal, together with the effective date, and afford the State an opportunity to request a hearing to challenge CMS' determination prior to the effective date." *Id.*

The Palmetto Pathways to Independence demonstration project also includes other authorities that CMS approved in the demonstration. CMS will also review those other authorities and will follow up with the state when that review is complete.

If you have any questions, please contact Judith Cash, Acting Deputy Director, Center for Medicaid and CHIP Services, at (410) 786-9686.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Richter", with a stylized flourish at the end.

Elizabeth Richter
Acting Administrator

cc: William Pak, State Monitoring Lead, Medicaid and CHIP Operations Group