

Testimony
Department of Human Services
Health Care Reform Review Committee
Representative George Keiser, Chairman
September 6, 2012

Chairman Keiser, members of the Health Care Reform Review Committee, I am Maggie Anderson, Interim Executive Director and Director of the Medical Services Division for the Department of Human Services. I appear before you to provide information regarding the status of the Department's implementation of the Affordable Care Act (ACA) and the issues related to the state's option to expand Medicaid under the ACA.

Medicaid Expansion

As I reported at the July meeting of this committee, on June 28, 2012, the Supreme Court upheld the 2014 Medicaid expansion; however, they struck down the mandate and determined that the federal government could not withhold all federal Medicaid funding if a state chooses not to expand Medicaid. Therefore, the decision about whether to expand the Medicaid program will be left to each state.

At the July meeting, I also reported that the Department and the National Association of Medicaid Directors (NAMD) had asked clarifying questions of the Centers for Medicare and Medicaid Services (CMS). Per the request of committee, the questions posed by NAMD are attached to my testimony. Several of the questions have now been answered; however, we continue to seek guidance on several important questions, including: ***Can a state choose to expand Medicaid to a Federal Poverty Level (FPL) lower than the 133 percent (plus 5 percent income disregard)? (If a state expands to a level lower than 133 percent of the FPL, is the state still eligible for the enhanced federal funding?)***



NAMID's SCOTUS questions

Submitted: July 3, 2012

Scope of Expansion, Timelines, and FMAP

- Can CMS confirm that individuals with income between 100-133% of the FPL will be eligible for cost sharing subsidies and tax credits to purchase coverage through the Exchange?
- Can states expand eligibility to 100%FPL or other levels less than 133% for the optional adult group? If so, how does this impact the FMAP? That is, will states be eligible for the enhanced federal funding per the current schedule?
- Will income disregards impact the MAGI/poverty level determination for eligibility purposes, effectively making the income levels for the optional eligibility expansions 105%/138%?
- Can states phase-in their expansion to the optional adult group beyond 2014? If so, how does this impact states' ability to receive the enhanced FMAP for the optional adult group?
- Will states have the option to expand to the optional adult group after 2014? If so, how does this impact states' ability to receive the enhanced FMAP for the optional adult group?
- Will states that previously expanded Medicaid eligibility be eligible for enhanced FFP even if they decide not to proceed with the Medicaid expansion to the optional adult group?
- How will CMS define "newly eligible" individuals for states that have already expanded some form of Medicaid coverage to the optional adult population prior to the implementation of the ACA? How will CMS define benchmark coverage as it relates to determining the number of "newly eligibles"? Will these states qualify for the full increase in enhanced federal funding? Will they qualify for expansion state funding?
- If a state chooses not to expand Medicaid to the optional adult category, can a state use Medicaid funding to assist individuals in this group and other Medicaid eligible individuals in purchasing health insurance through the Exchange? If so, would states be eligible to receive the enhanced FMAP according to the statute? Could they also use Medicaid funds to provide wrap around services? What is the approval process for this approach?

Process

- Must states proactively submit a SPA for approval of the expansion? Alternatively, must states submit a SPA indicating they are choosing not to expand to the optional adult group?
 - In either scenario, will CMS develop a template?
 - If so, when does CMS expect to make these resources and processes available?
 - What is the expected timeline for approval in either situation?
- Are there deadlines for the SPA submissions?



DSH reduction methodology, will CMS consider whether a state takes up – in its entirety or partially – the eligibility expansion to the optional adult group?

- What is CMS' timeline for issuing guidance on alternative benefit packages for the optional adult category?
- What is CMS' timeline for releasing the final rule regarding the temporary enhanced federal funding for primary care reimbursement rates?
- Does CMS plan to issue guidance related to how states notify individuals about the application of the penalty for not purchasing/enrolling in health coverage?
- What is the timeline for CMS issuance of guidance on the Basic Health Plan program?

UNDUPLICATED COUNT OF MEDICAID RECIPIENTS BY RACE
FOR STATE FISCAL YEAR 2011 (July 2010 - June 2011)

COUNTY	TOTAL RECIPIENTS	RACE					
		AMERICAN INDIAN	ASIAN/PACIFIC ISLANDER	BLACK	CAUCASIAN	OTHER	NOT IDENTIFIED
1 Adams	185	11	0	1	173	0	0
2 Barnes	1,548	51	6	49	1,441	1	0
3 Benson	2,775	2,379	0	4	386	6	0
4 Billings	32	0	0	0	32	0	0
5 Bottineau	729	48	4	3	673	1	0
6 Bowman	246	12	0	2	232	0	0
7 Burke	162	0	0	0	162	0	0
8 Burleigh	9,343	2,507	37	148	6,646	5	0
9 Cass	17,228	894	651	2,419	13,258	6	0
10 Cavalier	361	17	1	1	341	1	0
11 Dickey	656	20	3	14	619	0	0
12 Divide	217	2	0	3	212	0	0
13 Dunn	360	132	0	2	226	0	0
14 Eddy	353	33	0	2	316	2	0
15 Emmons	309	3	1	1	304	0	0
16 Foster	339	7	0	7	324	1	0
17 Golden Valley	186	0	0	2	184	0	0
18 Grand Forks	8,279	1,020	186	521	6,537	15	0
19 Grant	289	21	0	7	261	0	0
20 Griggs	253	8	0	1	244	0	0
21 Hettinger	223	12	0	7	203	1	0
22 Kidder	236	3	9	3	221	0	0
23 LaMoure	325	6	0	1	318	0	0
24 Logan	223	5	0	0	218	0	0
25 McHenry	558	12	2	1	543	0	0
26 McIntosh	346	3	0	3	340	0	0
27 McKenzie	1,047	638	2	5	402	0	0
28 McLean	915	229	0	2	682	2	0
29 Mercer	756	30	1	7	717	1	0
30 Morton	3,885	650	12	79	3,137	7	0
31 Mountrail	1,322	889	1	10	421	1	0
32 Nelson	341	21	0	4	316	0	0
33 Oliver	110	8	1	0	101	0	0
34 Pembina	818	43	0	5	769	1	0
35 Pierce	591	60	0	1	530	0	0
36 Ramsey	2,171	706	5	33	1,426	1	0
37 Ransom	701	10	5	14	668	4	0
38 Renville	212	0	0	6	206	0	0
39 Richland	2,099	129	7	30	1,932	1	0
40 Rolette	6,020	5,113	2	11	891	3	0
41 Sargent	293	1	1	0	291	0	0
42 Sheridan	196	8	0	0	188	0	0
43 Sioux	2,298	2,203	0	4	90	1	0
44 Slope	32	4	0	0	28	0	0
45 Stark	2,794	89	6	42	2,649	8	0
46 Steele	121	2	1	1	117	0	0
47 Stutsman	2,998	95	5	115	2,777	6	0
48 Towner	296	34	0	3	259	0	0
49 Traill	921	27	1	10	882	1	0
50 Walsh	1,778	59	1	10	1,706	2	0
51 Ward	7,096	833	33	258	5,936	36	0
52 Wells	533	11	0	5	517	0	0
53 Williams	2,513	219	6	13	2,275	0	0
Total	88,618	19,317	990	3,870	64,327	114	0
Percent of Total	100.00%	21.80%	1.12%	4.37%	72.59%	0.13%	0.00%

**North Dakota Department of Human Services
Medical Services Division**

MEDICAID MANDATORY AND OPTIONAL SERVICES

MANDATORY	OPTIONAL	OPTIONAL
Inpatient Hospital	Chiropractic Services	Mental Health Rehab / Stabilization
Outpatient Hospital	Podiatrist Services	Inpatient Hospital / Nursing Facility / ICF Services 65 and older in IMD
Laboratory X-ray	Optometrists / Eyeglasses	Intermediate Care Facility Services for MR
Nursing Facility Services for beneficiaries age 21 and older	Psychologists	Inpatient Psychiatric Services Under Age 21
EPSDT for under age 21	Nurse Anesthetist	Personal Care Services
Family Planning Services & Supplies	Private Duty Nursing	Targeted Case Management
Physician Services	Clinic Services	Primary Care Case Management
Nurse Mid-wife Services	Home Health Therapy	Hospice Care
Pregnancy Related Services and services for other conditions that might complicate pregnancy	Dental & Dentures	Non-Emergency Transportation Services
60 Days Post Partum Pregnancy-Related Services	Physical Therapy & Occupational Therapy	Nursing Facility Services Under Age 21
Home Health Services (Nursing), including Durable Medical Equipment and Supplies	Speech, Hearing, Language Therapy	Emergency Hospital Services in Non-Medicare Participating
Medical and Surgical Services of a Dentist	Prescribed Drugs	Prosthetic Devices
Emergency Medical Transportation	Diagnostic/Screening/Preventative Services	
Federal Qualified Health Center (FQHC) / Rural Health Center (RHC)		

Note: ALL Optional services are available to children under the age of 21, if medically necessary (Required through EPSDT)